

**FEDERAL BUREAU OF INVESTIGATION**  
**FREEDOM OF INFORMATION/PRIVACY ACTS SECTION**  
**COVER SHEET**

**SUBJECT: ALBERT J LINGO**

February 26, 1963

Airtel

To: SAC, Mobile  
From: Director, FBI

**JOHN ROBERT ZEKLNER**  
**CIVIL RIGHTS**

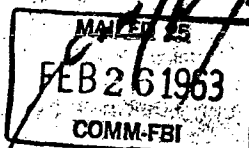
Re Mobile teletype to Bureau 2-12-63, entitled "John Robert Zellner, RM - CR."

Department advised this date that they had received a complaint concerning the arrest of Zellner on or about 1-8-63. Zellner at time of arrest on a charge of conspiracy was on the campus of Huntington College. The arrest was based on Zellner's efforts to organize demonstrations on the campus. Subsequent to his arrest and while in custody the charge was changed to vagrancy and he was convicted on this charge. The conviction was appealed to the Circuit Court, Montgomery, Alabama, and the vagrancy charge was dismissed 2-12-63.

For your information, Department also advised that Zellner was presently pending trial on the charge of false pretenses and is scheduled to be tried on this charge in Montgomery on 2-27-63.

Department requests that we conduct a preliminary investigation into the initial arrest of Zellner on charges of conspiracy, the subsequent changing of the charges to vagrancy upon which he was convicted and the subsequent dismissal of the charges by the Circuit Court. Your investigation should include interviews of victim, subjects, and a thorough check of arrest records showing the basis for charges placed against Zellner. Copies of official records which are pertinent to be obtained if possible.

JWH:hw  
(4)



EX-102 MCT 41  
SEE NOTE PAGE TWO.

21480  
21480-1  
44  
19 FEB 27 1963

MAR 15 1963

REC-45  
MAR 12 1963  
INCOM2

WVB 6-103

ROOM ☐ TELETYPE UNIT ☐

b7c Airtel to SAC, Mobile  
Re: [REDACTED] ET AL.

You should note that Department's request does not include investigation of the false pretenses charge placed against Zellner, or the subsequent trial on these charges. In order to avoid any possibility our investigation might conflict with the matter presently pending against Zellner, you should not initiate this preliminary investigation until Zellner's trial for false pretenses has been completed. Under no circumstances should an Agent be present in the courtroom during the course of Zellner's trial on these charges.

Advise appropriate officials at the initiation of this investigation and advise persons interviewed that investigation is being conducted at the request of Mr. Burke Marshall, Assistant Attorney General, Civil Rights Division, Washington, D. C.

Advise the Bureau by teletype when Zellner's present trial has been completed and your investigation has been initiated. Surep within seven days thereafter setting forth results. Include in this report the opinion of the U. S. Attorney as to the merits.

NOTE: See memo Rosen to Belmont, same caption, same date, JWH:cac.

44-21480-2

UNITED STATES GOVERNMENT

## Memorandum

TO : Mr. Belmont

DATE: 2/26/63

FROM : A. Rosen

SUBJECT:

JOHN ROBERT ZELLNER  
CIVIL RIGHTS

Tolson \_\_\_\_\_  
 Belmont \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 DeLoach \_\_\_\_\_  
 Evans \_\_\_\_\_  
 Gale \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Sullivan \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Trotter \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

SPECIAL ASSISTANT  
 TO ASSISTANT ATTORNEY  
 GENERAL BURKE MARSHALL

Mr. John Murphy, Civil Rights Division of the Department, at 11:20 A.M., 2/26/63, advised that John Doar had told him to request the Bureau to have an Agent cover the trial of John Robert Zellner, Montgomery, Alabama, 2/27/63, on charges of false pretense. The purpose of having the trial covered would be for the Agent to determine if any information arose in the course of the trial which would have a direct bearing on the original arrest of Zellner which took place on the campus of Alabama State College, Huntington, Alabama, on 1/8/63.

Zellner was arrested by state investigator on the campus of Alabama State College on 1/8/63 on charges of conspiracy based on the efforts of Zellner to organize demonstrations among the students. Zellner is allegedly connected with the Student Nonviolent Coordinating Committee. After Zellner was in custody, the conspiracy charge was changed to a charge of vagrancy and he was tried and convicted on the vagrancy charge on 1/9/63. Zellner appealed his conviction to the Circuit Court, Montgomery, Alabama, and the charges were dismissed by the court 2/12/63.

The Department was advised of Zellner's arrest and of dismissal of the charges on 2/14/63. No investigation was requested.

The trial of Zellner on false pretense charges developed from his purchase of a camera from a pawn shop in Birmingham wherein he paid for the camera by check on an Atlanta bank. After his departure from the pawn shop, it was reported that the operator became suspicious and called the Atlanta bank. The bank stated that Zellner had insufficient funds in his account to cover the \$80 check. This transaction is the basis for the charge of false pretense upon which Zellner is being tried in Circuit Court on 2/27/63.

Murphy, at the time of his call, also requested that we initiate a preliminary investigation into the original arrest of Zellner for conspiracy 1/8/63 and his subsequent trial on vagrancy.

- 1 - Mr. DeLoach
- 1 - Mr. Evans

JWH:cag

54 MAR 7 1963



Memorandum to Mr. Belmont  
RE [REDACTED] ET AL.  
b7C JOHN ROBERT ZELLNER

charges to determine the basis for these charges.

It was indicated to Mr. Murphy that as a matter of usual procedure the Bureau would not ordinarily allow an Agent to be present in the trial of a local matter, particularly one of a controversial nature and where we had conducted no prior investigation.

It was suggested that if it was necessary to have someone present, it would be more appropriate to have an attorney of the U. S. Attorney's Office or the Department present. It was also suggested that as an investigative matter the Bureau could determine the outcome of the trial and possibly obtain the transcripts if such were available.

Mr. Murphy stated that he intended to discuss the matter with Mr. Doar further and that as of this time we should take no action until further advised by the Department.

ACTION

Instructions will be issued to the Mobile Office to initiate a preliminary investigation into the initial arrest of Zellner on conspiracy charges and his subsequent trial conviction and dismissal of the vagrancy charges against him.

No action will be taken on Mr. Murphy's tentative request to have an Agent present at the trial of Zellner on false pretense charges unless further request is received from the Department.

ERC  
JMB  
R  
JRM  
Q  
C  
V

U. S. DEPARTMENT OF JUSTICE  
COMMUNICATIONS SECTION  
FEB 28 1963

TELETYPE

Mr. Tolson	
Mr. Belmont	
Mr. Mohr	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. DeLoach	
Mr. Evans	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Miss Holmes	
Miss Gandy	

*del*  
URGENT

2-28-63

4-00PM

MCM

TO DIRECTOR, FBI

FROM SAC, MOBILE /44-901/

*b7c*  
[REDACTED] ET AL. JOHN ROBERT ZELLNER VICTIM

*b7c*  
CIVIL RIGHTS.

REURAIRTEL FEBRUARY TWENTYSIX, SIXTYTHREE.

VICTIM/S TRIAL, MONTGOMERY COUNTY CIRCUIT COURT,  
MONTGOMERY, ALA., ENDED IN MISTRIAL THIS DATE

CIVIL RIGHTS INVESTIGATION WILL BE INSTITUTED MARCH

ONE, SIXTYTHREE, UACB.

END ACK PLS

5-00 PM OK FBI WA WS

62 MAR 7 1963  
TU DISC

EX-118  
REC-73  
MAR 4 1963  
FEB 28 2 00 PM '63  
RECEIVED

*b7c*  
[REDACTED]

# U.S. Is Probing Arrest Of Voter Aide in Alabama

A-7 By Robert E. Baker  
Staff Reporter

The Department of Justice has begun an investigation of the arrest of a white man trying to increase Negro voter registration in Alabama. The arrest was made by high officials of that State.

The man is John Robert Zellner, 23, a field secretary for the Student Non-Violent Coordinating Committee in Atlanta.

In a motion filed last week in the U. S. District Court in Montgomery, Zellner said he was arrested Jan. 8 on the campus of Huntingdon College on the orders of George C. Wallace—a week before Wallace was inaugurated Governor.

The actual arrest was made by Al Lingo, the court papers state. Lingo had been selected by Wallace to be State Public Safety Director in his administration. The arrest was made, according to the suit, despite the fact that incumbent State Safety Director Floyd Mann and Gov. John Patterson opposed it.

## Mistrial Declared

Zellner was convicted of vagrancy in Recorder's Court and appealed. Before he left jail on Jan. 10, however, he was arrested on a charge of "false pretenses" involving a check for \$85 that he wrote to pay for camera equipment he bought at a pawn shop. The state has dropped the vagrancy conviction and a mistrial was declared yesterday on the check charge.

Zellner said State Police cars kept him under constant surveillance in Montgomery and even followed him to his grandmother's funeral in Mobile on Jan. 26.

He said the arrests and "harassments" violated both the State and Federal Constitutions and were intended to interfere with his registration work among Negroes. He asked the Federal court to stop the State from "harassing" him and trying him on the false pretense charge.

Federal Judge Frank M. Johnson declined to grant the request, however, pending the outcome of the State trial.

## Plea Made to Jury

In Montgomery Circuit Court on Wednesday, Zellner's attorney, Charles Morgan Jr., of Birmingham, told the jury that the Atlanta bank would have honored Zellner's check if the police hadn't seized it in the Montgomery pawn shop.

Morgan urged the all-white jury not to consider Zellner's

prointegration activities in reaching a verdict. "The day that comes in this State that a man who disagrees can be charged and convicted of a crime, we will all be in trouble," he said.

Yesterday, after five hours of deliberation, the jury reported that it couldn't reach a verdict and Circuit Judge Eugene Carter declared a mistrial.

The Justice Department said it was not interested in the false-pretense charge. But, a spokesman said, the Department is investigating the circumstances of Zellner's arrest on the vagrancy charge to determine whether his civil rights were violated. The investigation, a spokesman said, will take several weeks.

144-21480 A

NOT RECORDED  
184 MAR 7 1963

Tolson ☒  
Belmont ☒  
Mohr ☐  
Casper ☐  
Callahan ☐  
Conrad ☒  
DeLoach ☒  
Evans ☐  
Gale ☒  
Rosen ☒  
Sullivan ☐  
Tavel ☐  
Trotter ☐  
Tele Room ☐  
Holmes ☐  
Gandy ☐

The Washington Post and Times Herald ☒ A-7  
The Washington Daily News ☐  
The Evening Star ☐  
New York Herald Tribune ☐  
New York Journal-American ☐  
New York Mirror ☐  
New York Daily News ☐  
New York Post ☐  
The New York Times ☐  
The Worker ☐  
The New Leader ☐  
The Wall Street Journal ☐  
The National Observer ☐  
Date ☐

MAR 1 1963

XXXXXX  
XXXXXX  
XXXXXXFEDERAL BUREAU OF INVESTIGATION  
FOIPA  
DELETED PAGE INFORMATION SHEET11

Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- ☐ Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552Section 552a☐ (b)(1)☐ (b)(7)(A)☐ (d)(5)☐ (b)(2)☐ (b)(7)(B)☐ (j)(2)☐ (b)(3)☐ (b)(7)(C)☐ (k)(1)☐ (b)(7)(D)☐ (k)(2)☐ (b)(7)(E)☐ (k)(3)☐ (b)(7)(F)☐ (k)(4)☐ (b)(4)☐ (b)(8)☐ (k)(5)☐ (b)(5)☐ (b)(9)☐ (k)(6)☐ (b)(6)☐ (k)(7)

- ☐ Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.

- ☒ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

Pages were not considered for release as they are duplicative of \_\_\_\_\_

Page(s) withheld for the following reason(s): \_\_\_\_\_

- ☒ The following number is to be used for reference regarding these pages:

44-21480-4 pgs 1-11.

XXXXXXXXXXXXXXXXXXXX  
X Deleted Page(s) X  
X No Duplication Fee X  
X for this page X  
XXXXXXXXXXXXXXXXXXXX

XXXXXX  
XXXXXX  
XXXXXX

3-4-63

EX-114 Airtel

REC-15

To: SAC, Mobile (44-991).

From: Director, FBI

RE AL.  
JOHN ROBERT MURPHY - VICTIM  
CIVIL RIGHTS

ReBuairtel 3-26-63.

The Department by memorandum received 3-4-63 furnished copies of the unsigned statement of the victim in this matter.

This statement was furnished to a representative of the Civil Rights Commission by letter dated 1-23-63 from [REDACTED]

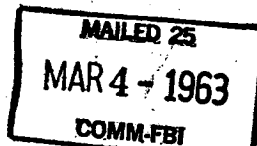
The Department has also made available a copy of a memorandum dated 1-18-63 from the Assistant General Counsel of the Civil Rights Commission to the Department.

For assistance in the investigation presently underway in your office, there is enclosed herewith one copy each of the above-described documents.

Enclosures (3)

RCF:cac (4)

cac



NOTE: In accordance with request of John Murphy, CRD, reBuairtel instructed a PI be instituted into the original arrest of victim for conspiracy 1-8-63 and his subsequent trial on vagrancy charges in an effort to determine the basis for these charges. Victim arrested by subject on campus of Alabama State Collged on charge of conspiracy based on efforts of victim to organize demonstrations among students. After victim in custody, conspiracy changed to charge of vagrancy. He was tried and convicted for vagrancy on 1-9-63. Victim appealed conviction in circuit court Montgomery and charges dismissed by this court 2-12-63. [REDACTED]

Tolson \_\_\_\_\_  
Belmont \_\_\_\_\_  
Mohr \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Evans \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

55 MAR 13 1963

MAIL ROOM ☒ TELETYPE UNIT ☐

OPTIONAL FORM NO. 10  
MAY 1962 EDITION  
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

# Memorandum

TO : Mr. Rosen *Rosen*

DATE: March 1, 1963

FROM : C. L. McGowan *McGowan*

SUBJECT: [REDACTED] ET AL.

JOHN ROBERT ZELLNER - VICTIM  
CIVIL RIGHTS

Tolson \_\_\_\_\_  
Belmont \_\_\_\_\_  
Mohr \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Evans \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

b7c SAC Tully of the Mobile Office telephonically contacted the Bureau as to the desirability of instituting a preliminary investigation in this case as of 3/1/63.

b7c Zellner was arrested [REDACTED] on 1/8/63 on a charge of conspiracy while on the campus of Alabama State College, Montgomery, Alabama. At that time Zellner was endeavoring to organize demonstrations on the campus. Following his arrest, the charge was changed to vagrancy. Zellner was convicted on that charge. The conviction was appealed to the Circuit Court in Montgomery, Alabama, and the vagrancy charge was dismissed on 2/12/63.

An additional charge of false pretense was lodged against Zellner for having endeavored to obtain a camera from a store in Birmingham, Alabama, by payment of a check on an Atlanta, Georgia, bank.

This bank had stated that Zellner had insufficient funds to cover the check. Zellner was being tried on the false pretense charge in Circuit Court beginning on 2/27/63.

The Department had requested a preliminary investigation into the original arrest for conspiracy and the subsequent trial for vagrancy to determine the basis for such charges. The Bureau instructed the Mobile Office not to institute the investigation until the local trial on the false pretense charge had terminated. On 2/28/63 the trial in Montgomery, Alabama, Circuit Court ended in a mistrial.

b7c Tully stated that it was possible that the State might reschedule the trial at a later date and thought that the Bureau might desire to hold up on its investigation. He further pointed out that [REDACTED] is a graduate of the FBI National Academy, and that Zellner is considered to be "a known agitator" in the Montgomery area. Tully felt that investigation by the Bureau in this matter would result in an unfavorable comment from Governor Wallace, State of Alabama, as well as police officials in Montgomery, Alabama.

CLM:ers  
(5)

50 MAR 13 1963

EX-112 REC-28  
MAR 8 1963

44-21480-5  
17 MAR 7 1963



**Memorandum for Mr. Rosen**

**ACTION:**

Tully was instructed to proceed with the investigation. It was pointed out that Zellner was considered an "agitator" by individuals in Montgomery because of his efforts to advance the rights of the Negro minority groups and because his views on racial matters were different than those of city authorities, Tully was reminded that an individual has rights under the Constitution whether he agrees with the Administration in power in a local community or not. Tully was further advised that we could not let a statement or a fear of a statement by Governor Wallace hold up an investigation because it did not appear that Governor Wallace would ever endorse any civil rights investigation.

FBI

Date: 3/6/63

Transmit the following in \_\_\_\_\_

(Type in plain text or code)

Via AIRTEL

AIRMAIL

(Priority or Method of Mailing)

TO : DIRECTOR, FBI  
 FROM : SAC, MOBILE (44-901)(P)  
 SUBJECT: [REDACTED] ET AL.;  
 JOHN ROBERT ZELLNER - VICTIM  
 CR

Reurairtel, 2/26/63.

Subject [REDACTED] Montgomery, Alabama, unavailable  
 for contact until 3/6/63, due to investigative assignments.

On 3/6/63, [REDACTED] advised SA [REDACTED] that  
 while he was perfectly willing to furnish all information in  
 his possession concerning this matter, he felt that it was  
 mandatory that he confer with ALBERT J. LINGO, Director,  
 Alabama Department of Public Safety, prior to being inter-  
 viewed. [REDACTED] advised LINGO is out of the city until some  
 time late Friday, 3/8/63.

Report will be submitted 3/13/63.

③ - Bureau  
 1 - Mobile  
 SHR:plw  
 (4)

U.S. DEPT. OF JUSTICE  
 F.B.I.

MAR 8 10 05 AM '63

REC'D MAR 11 1963  
 RECEIVED

REC-38

EX-115

MAR 8 1963

Approved: F7

Sent \_\_\_\_\_

M

Per \_\_\_\_\_

Special Agent in Charge

62 MAR 11 1963

UNITED STATES GOVERNMENT

# Memorandum

TO : DIRECTOR, FBI

DATE: 2/28/63

FROM : SAC, MOBILE (157-83)

SUBJECT: JOHN ROBERT ZELLNER  
RM - CR

b7c ReBuRad dated 2/13/63 and Buairtel to Mobile dated 2/26/63 captioned [REDACTED] ETAL; JOHN ROBERT ZELLNER, CIVIL RIGHTS.

Enclosed herewith to the Bureau are 2 copies of a clipping which appeared in the 2/27/63 issue of the Montgomery Advertiser, Montgomery, Ala., a daily newspaper published at Montgomery. The editor is GROVER C. HALL, JR. and the article is entitled "ZELLNER PLEA DENIED TWICE; TRIAL TODAY".

Clippings carrying results of the trial will be furnished to the Bureau and in accordance with reBuairtel dated 2/26/63, teletype will be sent Bureau on disposition of trial.

② - Bureau (Encls. 2)  
2 - Mobile (157-83)  
WED-Amd (44-901)  
(4)

3 Ind. [unclear]  
ENCLOSURE

REC-38

EX-102

44-21480-73  
3 MAR 4 1963

1cc CRD-695-A-3-6-63  
1cc CR Unit

345  
MAR 12 1963

EXP. PROC.

# U. S. Is Probing Arrest Of Voter Aide in Alabama

By Robert E. Baker  
Staff Reporter

The Department of Justice has begun an investigation of the arrest of a white man trying to increase Negro voter registration in Alabama. The arrest was made by high officials of that State.

The man is John Robert Zellner, 23, a field secretary for the Student Non-Violent Coordinating Committee in Atlanta.

In a motion filed last week in the U. S. District Court in Montgomery, Zellner said he was arrested Jan. 8 on the campus of Huntingdon College on the orders of George C. Wallace, a week before Wallace was inaugurated Governor.

The actual arrest was made by Al Lingo, the court papers state. Lingo had been selected by Wallace to be State Public Safety Director in his administration. The arrest was made, according to the suit, despite the fact that incumbent State Safety Director Floyd Mann and Gov. John Patterson opposed it.

## Mistrial Declared

Zellner was convicted of vagrancy in Recorder's Court and appealed. Before he left jail on Jan. 10, however, he was arrested on a charge of "false pretenses" involving a check for \$85 that he wrote to pay for camera equipment he bought at a pawn shop. The state has dropped the vagrancy conviction and a mistrial was declared yesterday on the check charge.

Zellner said State Police cars kept him under constant surveillance in Montgomery and even followed him to his grandmother's funeral in Mobile on Jan. 26.

He said the arrests and "harassments" violated both the State and Federal Constitutions and were intended to interfere with his registration work among Negroes. He said the Federal Court to stop the State from "harassing" him and trying him on the false pretense charge.

Federal Judge Frank M. Johnson declined to grant the request, however, pending the outcome of the State trial.

## Plea Made to Jury

In Montgomery Circuit Court on Wednesday, Zellner's attorney, Charles Morgan Jr., of Birmingham, told the jury that the Atlanta bank would have honored Zellner's check if the police hadn't seized it in the Montgomery pawn shop.

Morgan urged the all-white jury not to consider Zellner's

Tolson \_\_\_\_\_  
Belmont \_\_\_\_\_  
Mohr \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Evans \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen ☒ \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

b7c

b7c

ET.  
JOHN ROBERT ZELLNER  
VICTIM  
CIVIL RIGHTS

prointegration activities in reaching a verdict. "The day that comes in this State that a man who disagrees can be charged and convicted of a crime, we will all be in trouble," he said.

Yesterday, after five hours of deliberation, the jury reported that it couldn't reach a verdict and Circuit Judge Eugene Carter declared a mistrial.

The Justice Department said it was not interested in the false-pretense charge. But, a spokesman said, the Department is investigating the circumstances of Zellner's arrest on the vagrancy charge to determine whether his civil rights were violated. The investigation, a spokesman said, will take several weeks.

The Washington Post and Times Herald A7  
The Washington Daily News \_\_\_\_\_  
The Evening Star \_\_\_\_\_  
New York Herald Tribune \_\_\_\_\_  
New York Journal-American \_\_\_\_\_  
New York Mirror \_\_\_\_\_  
New York Daily News \_\_\_\_\_  
New York Post \_\_\_\_\_  
The New York Times \_\_\_\_\_  
The Worker \_\_\_\_\_  
The New Leader \_\_\_\_\_  
The Wall Street Journal \_\_\_\_\_  
The National Observer \_\_\_\_\_  
Date 3-1-63

ENCLOSURE

44-21480-7

Feb 6 1963

# Desegregation Leader Charges Harassment

By Arthur Osgoode  
Special to The Washington Post

MONTGOMERY, Ala., Feb. 26—Robert Zellner, a young white desegregation leader, has gone into Federal Court here to charge State and local authorities with violating his civil rights.

In a petition filed today, his attorney charged that Zellner is being made the object of a campaign of harassment and intimidation aimed at halting a campaign to register Negroes as voters.

The petition specifically charged that Al Lingo, appointed Alabama public safety director by Gov. George C. Wallace, assigned "tormentors" who trailed Zellner to his grandmother's funeral and waited outside the home where the wake was being held.

It also attacked the entire system of administration of justice in Alabama for what was described as systematic exclusion of Negroes at all levels, from the arresting policeman to the appellate courts.

## Patterson Opposed

The petition described former Gov. John Patterson as being opposed to Zellner's arrest here on Jan. 8 on "trumped-up charges" despite Patterson's pro-segregation views.

Zellner was first charged with vagrancy and convicted in a city court. The case was later dropped when he appealed. The second charge was for false pretense in writing an \$85 check for a camera.

According to the charge against Zellner, he wrote the check knowing he did not have sufficient funds in an Atlanta bank to cover it. But, accord-

ing to the petition, the check was held by the Montgomery city police and has never been presented for payment. "Had it been so presented, it would have been honored."

Observing that Zellner is engaged in a drive to get Negroes registered to vote in Alabama counties where no Negroes are now registered, the complaint said his arrest "is intended to force Zellner and others engaged in work similar or like to his to leave Alabama."

## Unlawful Search

It alleged that at his arrest he was subjected to unlawful search and that he was convicted in the city court of vagrancy without any legal evidence.

And it said that "the intention of his tormentors is to deprive the plaintiff of the right of free speech and association ... thereby further intimidating Negroes and others involved in the voter registration movement."

What is sought is an injunction forbidding further harassment and surveillance of Zellner, or if the court determines it does not have jurisdiction to issue such an order, a hearing before three Federal judges.

Zellner is being represented by Charles Morgan, a white attorney from Birmingham. His trial in State court on the check case is to begin on Wednesday.

Tolson \_\_\_\_\_  
Belmont \_\_\_\_\_  
Mohr \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Evans \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen ☒ \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

67C

The Washington Post and Times Herald 21  
The Washington Daily News \_\_\_\_\_  
The Evening Star \_\_\_\_\_  
New York Herald Tribune \_\_\_\_\_  
New York Journal-American \_\_\_\_\_  
New York Mirror \_\_\_\_\_  
New York Daily News \_\_\_\_\_  
New York Post \_\_\_\_\_  
The New York Times \_\_\_\_\_  
The Worker \_\_\_\_\_  
The New Leader \_\_\_\_\_  
The Wall Street Journal \_\_\_\_\_  
The National Observer \_\_\_\_\_  
Date 2-27-63

ENCLOSURE

F-1  
6-11-63  
7

(Mount Clipping in Space Below)

# Zellner Plea Denied Twice; Trial Today

By ARTHUR OSGOOD

John Robert Zellner goes on trial for false pretense in Circuit Court here Wednesday, two federal judges having Tuesday turned down his attorney's bid to stop the trial.

The 23-year-old integrationist is charged with giving an \$85 check in payment for a camera when he knew he did not have enough money in an Atlanta bank to cover it.

Tuesday, his attorney invoked the Civil Rights Act in seeking to have the U.S. District Court take jurisdiction of the case and issue an injunction forbidding state and local authorities from "harassment, intimidation and persecution" of Zellner.

After the motion for a temporary restraining order and stay of the trial was denied by Judge Frank M. Johnson Jr., attorney Charles Morgan Jr. of Birmingham went to Judge Richard Rives of the U.S. 5th Circuit Court of Appeals.

Rives also denied the application.

## SOUGHT ARREST

Morgan had charged that Gov. George Wallace had sought the arrest of Zellner a week before his inauguration, and that Al Lingo, now director of the Department of Public Safety, has since harassed Zellner by keeping him under the surveillance of state agents.

The motion also said that former Gov. John Patterson, while declaring he had no sympathy for Zellner, had declined to have him arrested on "trumped-up" charges.

Zellner was first charged with vagrancy, but this case was dropped by the city prosecutor after his conviction in Recorder's Court. The false pretense charge

which followed resulted in a grand jury indictment.

According to the motion filed in federal court, Zellner has been busy in a drive to get Negroes registered to vote in Dallas, Lowndes and Wilcox counties. It was alleged that because of this activity state and local authorities have sought "to make an example of him, thereby further intimidating Negroes and others involved in the voter registration movement."

It was alleged that former Public Safety Director Floyd Mann on Jan. 8 found waiting in his office "a private citizen named Al Lingo," who said Wallace wanted Zellner arrested.

## DECLINED REQUEST

Mann, the motion continued, declined the request, telling Lingo that since "Zellner had committed no crime, then no one in the Department of Public Safety would swear out a warrant."

Patterson was described as backing up Mann, though he said that "as an ardent segregationist he had no sympathy for Zellner and had no objection to seeing him in jail..."

Lingo was described as making the arrest on the Huntingdon campus. In an affidavit accompanying the motion, Zellner said Lingo told him he was being arrested for conspiracy against "the State of Alabama."

The motion also launched a broad attack on what was described as systematic exclusion of Negroes from all state and local agencies involved in Zellner's arrest and prosecution "except perhaps for a mere token number of Negroes serving on the grand jury and the venire."

It was alleged that only white persons serve as judges on Alabama state courts, or as employees of the courts, or as city attorneys, police commissioners, sheriffs, or policemen.

## SEGREGATED FACILITIES

Attention was further called to segregated courtroom facilities.

Morgan contended that the purpose of the prosecution of Zellner was to run him out of the state, depriving him of his right of free speech and association.

The motion asked that the federal court take over the case, halt the alleged harassment, or as an alternative allow the case to be presented before a panel of three judges.

Morgan had previously attacked the prosecution and arrest of Zellner when he sought last week to have Circuit Judge Eugene Carter quash his indictment on the grounds that it was not based on any legal evidence.

The motion was filed in Zellner's behalf against Lingo, Circuit Solicitor William Thetford, and Deputy Solicitors Maury Smith and Frank Riggs. All were accused of unlawful use of the police power of the state to prevent Zellner from engaging in the voter registration drive.

(Indicate page, name of newspaper, city and state.)

1 MONTGOMERY  
ADVERTISER  
MONTGOMERY, ALA.

Date: 2/27/63  
Edition:  
Author:  
Editor:  
Title: JOHN ROBERT  
ZELLNER

Character: RM - CR  
or  
Classification: 157-83  
Submitting Office: MOBILE

44 21470 - 7  
ENCLOSURE



(Mount Clipping in Space Below)

Mr. Tolson \_\_\_\_\_  
 Mr. Belmont \_\_\_\_\_  
 Mr. Mohr \_\_\_\_\_  
 Mr. Casper \_\_\_\_\_  
 Mr. Callahan \_\_\_\_\_  
 Mr. Conrad \_\_\_\_\_  
 Mr. DeLoach \_\_\_\_\_  
 Mr. Evans \_\_\_\_\_  
 Mr. Gale \_\_\_\_\_  
 Mr. Rosen \_\_\_\_\_  
 Mr. Sullivan \_\_\_\_\_  
 Mr. Tavel \_\_\_\_\_  
 Mr. Trotter \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Miss Holmes \_\_\_\_\_  
 Miss Gandy \_\_\_\_\_

## Vagrancy Charges Dropped Against Integration Leader

Charges of vagrancy against John Robert Zellner, youthful integration leader, were dropped in Circuit Court Tuesday.

City prosecutor Dave Crosland said that "it is my considered opinion that the city cannot sustain and support a charge of vagrancy against this defendant."

Zellner was appealing his conviction on the charge of vagrancy in Recorder's Court where he received a sentence of 60 days hard labor.

In not pressing the case, Cros-

land spoke at length in attacking Zellner's record of association with integrationist activities.

Conceding that Zellner had a means of livelihood, Crosland said it came from "a source which calls itself non-violent but on every opportunity performs acts which create dissension, hatred, unrest, and in certain cases as in Mississippi, bloodshed."

### STIR UP TROUBLE

He suggested that Zellner wished to be tried in order "to become a martyr and stir up more trouble with future activities."

Crosland further observed that Zellner had brought himself into disfavor with authorities at Huntingdon College when he attended integrationist meetings while a student there.

Zellner was reprimanded by the college at the time. Later, he was ordered to leave the campus while visiting a friend because his "views on racial matters differ from those of the student body."

He was also arrested during racial unrest at Albany, Ga., McComb, Miss., Talladega and Baton Rouge.

Crosland, as he was dropping the charges against Zellner, commented on his connection as a correspondent with "The Student Voice," publication of the Student Non-Violent Coordinating Committee of Atlanta and on his arrest in a group of 11 "freedom riders" in Albany.

Zellner's pocketbook, discarded at the time of the arrest, showed him to be a correspondent of the "Southern Patriot," of which Carl Braden, jailed for failure to answer questions by the House Un-American Activities Committee, is co-editor, said Crosland.

And he observed that Zellner is free under \$5,000 bond posted in Louisiana, where he was charged with anarchy.

Crosland said a thorough investigation had been made of Zellner's activities over the past two years in order not "to unjustly condemn the defendant" and "to see that he did receive justice."

The city prosecutor also said that Zellner had refused to testify as to his income when he was tried in Recorder's Court. Later, said Crosland, he disclosed that he earned "anywhere from 20, 30, 40 dollars a week" during his work in furthering integration for Student Nonviolent Coordinating Committee.

2A MONTGOMERY  
ADVERTISER  
MONTGOMERY, ALA.

44-21480-A  
114-19075-A  
NOT RECORDED  
184 FEB 21 1963

Date: 2/13/63  
 Edition:  
 Author:  
 Editor:  
 Title: JOHN ROBERT  
ZELLNER  
 Character: RM - CR  
 or  
 Classification: 157-83  
 Submitting Office: MOBILE

MAR 15 1963

62 FEB 25 1963

FEDERAL BUREAU OF INVESTIGATION  
U. S. DEPARTMENT OF JUSTICE  
COMMUNICATIONS SECTION

FEB 13 1963

TELETYPE

Mr. Tolson	_____
Mr. Belmont	_____
Mr. Mohr	_____
Mr. DeLoach	_____
Mr. Casper	_____
Mr. Callahan	_____
Mr. Conrad	_____
Mr. Felt	_____
Mr. Gale	_____
Mr. Rosen	_____
Mr. Sullivan	_____
Mr. Tavel	_____
Mr. Trotter	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

URGENT 2-13-63 3-37 PM EJ

TO DIRECTOR & FBI

FROM SAC, MOBILE /157-83/

JOHN ROBERT ZELLNER, RM DASH CR.

REBURAD TODAY.

MONTGOMERY ADVERTISER ARTICLE REFLECTS VAGRANCY CHARGES  
AGAINST ZELLNER DROPPED IN CIRCUIT COURT, MONTGOMERY, ON FEB.

TWELVE INSTANT.

END AND AC2 PLS

4-39 PM OK FBI WA BH

TU CLAR

MAR 15 1963

ST-115

REC-58

FEB 14 2 58 PM '63

44-21480-8  
FEB 14 1963

John Murphy  
adv 2/14/63

2/13/63

CODE

RADIOGRAM

URGENT

TO SAC MOBILE  
FROM DIRECTOR FBI

JOHN ROBERT ZELLNER, RACIAL MATTERS DASH CIVIL RIGHTS.

INFORMATION PREVIOUSLY RECEIVED FROM YOUR OFFICE THAT ZELLNER  
WAS CONVICTED OF VAGRANCY CHARGES JANUARY NINE LAST. DEPARTMENT  
ADVISED HIS APPEAL FROM THIS CONVICTION WAS SCHEDULED FOR  
FEBRUARY TWELVE LAST. SUTEL WHETHER APPEAL WAS HEARD ON  
FEBRUARY TWELVE LAST AND RESULTS OF APPEAL.

If next radio contact missed, send by urgent  
teletype plain text.

U:cas  
(3)

REC-70

44-19090-33  
44-21480-9

19 FEB 14 1963

TE:

John Robert Zellner has been active in integration  
demonstrations in the south for the past several  
years. He was arrested and charged with vagrancy  
on January 8, 1963, in Montgomery, Alabama.

Above request was made orally by Mr. John Murphy  
of the Civil Rights Division who requested that he  
be furnished the information today

VIA RADIOGRAM

FEB 13 1963

11:58 AM

1963

20 1963

MAIL ROOM

TELETYPE UNIT

INDEXED BY	
RECORDED BY	
CK	
ENC	
WB	

NA 6/15  
9/17/63

FEDERAL BUREAU OF INVESTIGATION  
U. S. DEPARTMENT OF JUSTICE  
COMMUNICATIONS SECTION

MAR 12 1963

TELETYPE

Mr. Tolson	
Mr. Belmont	
Mr. Mohr	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. DeLoach	
Mr. Evans	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Miss Holmes	
Miss Gandy	

b7c

*[Handwritten signature]*

URGENT 3/12/63 4-31 PM CST LPB

TO DIRECTOR, FBI

FROM SAC, MOBILE /44-901/ 1P

**[REDACTED]** ET AL. JOHN ROBERT ZELLNER - VICTIM.  
CIVIL RIGHTS.

REMYAIRTEL MARCH SIX, SIXTYTHREE.

**[REDACTED]** ALBERT J. LINGO, DIRECTOR OF ALABAMA  
DEPARTMENT OF PUBLIC SAFETY, WHO ORIGINALLY EXPRESSED INTENTION  
TO GIVE STATEMENTS FULLY PRESENTING THEIR SIDE OF INCIDENT,  
ADVISED TODAY THAT ON ADVICE OF COUNSEL THEY WOULD BE UNABLE  
TO MAKE STATEMENTS. THEREFORE, ADDITIONAL INVESTIGATION  
NECESSARY TO ROUND OUT FACTS. REPORT WILL BE SUBMITTED 44-21480-10

MARCH FIFTEEN, SIXTYTHREE.

END ACK PLS

5-32 PM OK FBI WA, DET

TU CLEAR

MM 13 50 VM 83

REC-42

17 MAR 14 1963

LBI  
REC'D - CIA HIGH 12

EX-112

b7c

LBI  
REC'D - CIA HIGH 12  
*Antel SAC Mo*  
*3/13/63*  
*Genl. Pab*

b7c

cc



3/13/63

Airtel

To: SAC, Mobile (44-901)

From: Director, FBI (44-21480) - 10

RE: [REDACTED] ET AL.  
JOHN ROBERT KELLNER - VICTIM  
CIVIL RIGHTS

It is noted that in referenced teletype you state that it is necessary at this time to conduct additional investigation in order to round out the facts.

By Bureau airtel of 2/26/63 you were instructed to initiate a preliminary investigation after completion of the false pretense trial against Kellner and to submit a report seven days thereafter. By teletype 2/28/63 you stated that investigation would be instituted 3/1/63. By airtel of 3/6/63 you advised that due to the unavailability of subjects [REDACTED] a report would not be submitted until 3/13/63. It would appear that at this point all of your investigation should have been completed with the exception of interview of [REDACTED].

Examine the handling of this matter and advise by return mail the nature of the investigation now being conducted and specifically the reasons why this investigation was not fully covered when the preliminary investigation was initiated. In the event you determine there is some unnecessary delay in the handling of this matter, submit appropriate explanations and recommendations.

Tolson \_\_\_\_\_  
Belmont \_\_\_\_\_  
Mohr \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Evans \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

JWH:pa  
(5)

REC'D - CIVIL RIGHTS

53 MAR 19 1963

MAIL ROOM ☐ TELETYPE UNIT ☐

UNITED STATES GOVERNMENT

## Memorandum

TO : DIRECTOR, FBI (44-21480)

DATE: 3/15/63

b2  
FROM : SAC, MOBILE (44-901)SUBJECT: [REDACTED] ETAL  
JOHN ROBERT ZELLNER - VICTIM  
CIVIL RIGHTS

ReBuAirtel dated 3/13/63.

I have personally supervised this case on a daily basis since investigation was instituted on 3/1/63. On that date I advised Senior Resident Agent [REDACTED] at Montgomery, Ala. that the case was assigned to him; that he was to take an experienced Agent with him and handle the case as a special. On 3/1/63 he advised Governor GEORGE WALLACE and ALBERT LINGO, Director, Alabama Department of Public Safety, of the initiation of this investigation. On that date he also located, after some difficulty, JOHN ROBERT ZELLNER and interviewed him at length. 3/1/63 was a Friday. On Monday, 3/4/63, efforts were made to contact [REDACTED] who was out of Montgomery on another assignment. Records were checked on 3/4/63 at the City Jail, County Jail, City Court and Montgomery Circuit Court. Also, discreet check was made of records of the U.S. Clerk of Court since ZELLNER had indicated during his interview on 3/1/63 that he had filed a petition in Federal Court. It was subsequently determined that the petition to which he was referring had to do with the check case which he was attempting to have transferred from Circuit Court to Federal Court. Since the Department's request did not include investigation of this check charge, we did not pursue that aspect. On Tuesday, 3/5/63, I instructed SA [REDACTED] to go to the newspaper morgue and discreetly review all of the newspaper stories on the Zellner case since we were still not sure who the subjects were and it was felt that some detail might be obtained which would be helpful in this regard. On the same date efforts were again made to locate [REDACTED] and he was still out of town.

b7c  
[On 3/6/63] SA [REDACTED] who had returned to Montgomery, after discussing the reason for the interview with him, [REDACTED] who is a National Academy man and very cordial, said he would be better equipped if we first talked to ALBERT LINGO. [REDACTED] said he had no objection to giving all the facts on the case, but

2 - Bureau  
1 - Mobile  
ERT: Amd  
(3)

1 cc CRTs of  
5 MAR 22 196320  
10 MAR 18 1963EXP. PROC.  
32 MAR 18 1963



b7c  
he thought LINGO should be interviewed first. SA [redacted] immediately attempted to locate LINGO but again found he was out of town inspecting the various highway patrol facilities. He was expected to return on 3/7/63. SA [redacted] attempted to locate LINGO on 3/7/63 and found that he had proceeded to Northern Alabama in connection with a series of tornadoes in that area. LINGO was still out of town on 3/8/63. On Monday, 3/11/63, I personally went to Montgomery with the intention of discussing the case with SA [redacted] and finding out how we could expedite the interviews with LINGO. LINGO had returned to Montgomery over the weekend and we finally reached him on 3/11/63. He told SA [redacted] that he would give a statement; that he had nothing to hide and that he was happy at the opportunity to present his side of the story. He said, however, just to be certain he would check with his attorney inasmuch as the state case against ZELLNER on the check charge was still pending. He said he would talk to his attorney that evening and contact us the first thing Tuesday morning, 3/12/63. On Tuesday morning, 3/12/63, LINGO contacted us and said his attorney told him to make no statement whatsoever. Thereafter we immediately contacted [redacted] said that while he was willing to discuss everything with us, he felt he had to follow LINGO's lead and, therefore, he declined to furnish any statement. At this point I again discussed the case with SA [redacted] and felt that we did not have sufficient facts to round out the complaint. I instructed SA [redacted] to contact [redacted] and see if he would give us additional facts so that we would have more of a complete picture. On 3/12/63 [redacted] was contacted and was perfectly willing to furnish information available to him on the case since he had been directly involved in it, and I felt then that we had sufficiently developed the necessary information consistent with a preliminary type inquiry. Report was dictated on dictabelts on 3/13/63 in Montgomery, received at Mobile on 3/14/63 and left Mobile on 3/15/63. In addition to the above facts it was necessary to obtain the opinion of the U. S. Attorney, MDA, as to the merits of this case, and Mr. BEN HARDEMAN, USA, was not available on 3/12/63, but was on 3/13/63.

There was no unnecessary delay in handling this matter. LINGO's unavailability due to the nature of his new assignment as Director of the Department of Public Safety, and

MO 44-901

b7c the emergency weather circumstances contributed to difficulty in contacting him. I personally instructed SA [redacted] at the very beginning of this case to talk with me about what he had done each day and no day passed without my knowing what he was doing on this case. Every effort was made to handle this case in accordance with Bureau instructions for promptness and thoroughness, and I feel that such was accomplished in this matter.

## FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE <b>MOBILE</b>	OFFICE OF ORIGIN <b>MOBILE</b>	DATE <b>3/15/63</b>	INVESTIGATIVE PERIOD <b>3/1 - 13/63</b>
TITLE OF CASE <b>CHANGED</b> <b>[REDACTED]</b> Investigation and Identification Division, Alabama Department of Public Safety, Montgomery, Alabama; ALBERT J. LINGO, Director, Alabama Department of Public Safety, Montgomery, Alabama; JOHN ROBERT ZELLNER - VICTIM		REPORT MADE BY <b>SA [REDACTED]</b> <b>b7c</b>	TYPED BY <b>/gre</b>
		CHARACTER OF CASE  <b>CR</b>	

The title of this case is marked changed to reflect the middle initial and title of subject [REDACTED] and to add ALBERT J. LINGO, Director, Alabama Department of Public Safety, Montgomery, Alabama, as a subject.

REFERENCES: Bureau airtel to Mobile dated 2/26/63.

Mobile teletype to Bureau dated 2/28/63.

Bureau airtel to Mobile dated 3/4/63.

- C -

## ENCLOSURES:

TO THE BUREAU

Two (2) copies of a petition filed on behalf of ZELLNER in USDC, MDA, 2/26/63. Two (2) copies of order of Fifth U. S. Circuit Court of Appeals Judge RICHARD T. RIVES,

APPROVED <b>2/26/63</b>	SPECIAL AGENT IN CHARGE	DO NOT WRITE IN SPACES BELOW	
COPIES MADE:		44-21480-12	
2 - Bureau (44-21480)(Enc 4)		REC-9 MCT-12	
1 - USA, Montgomery (Enc 2)		EX-112-14	
1 - Mobile (44-21480)(Enc 2)		DEPT OF JUSTICE MAR 18 1963	
1cc 4 each CRD-6-94-A-3/14/63 JWH/cfw		ENCLOSURE	
DISSEMINATION RECORD OF ATTACHED REPORT			
AGENCY	1cc CRD	NOTATIONS	
REQUEST RECD.		RECEIVED	
DATE FWD.	3-19-63	STAT	
HOW FWD.	6-94-A	STAT	
BY	JWH/cfw	STAT	

67 APR 4 - 1963

MO 44-901

ADMINISTRATIVE:

It was impossible to obtain a copy of any record of ZELLNER's arrest on conspiracy. It will be noted from the details hereof that although told he was arrested for conspiracy, no warrant was issued against him on that charge. Inquiry at the County Jail indicates that he was never booked and all necessary information relative to his arrest and subsequently being charged and convicted of vagrancy are reflected in the details.

**UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION**

Copy to: 1- United States Attorney, Montgomery, Alabama

b7C  
Report of: SA [REDACTED] /gre  
Date: March 15, 1963 lfb

Office: MOBILE

Field Office File No.: 44-901

Bureau File No.: 44-21480

b7C  
Title: [REDACTED] Investigative and  
Identification Division, Alabama Department of  
Public Safety, Montgomery, Alabama;  
ALBERT J. LINGO, Director, Alabama Department of  
Public Safety, Montgomery, Alabama;  
Character: JOHN ROBERT ZELLNER - VICTIM

**CIVIL RIGHTS**

Synopsis:

b7C  
Victim, Montgomery, Ala., alleges arrested 1/8/63 by  
subject LINGO accompanied by subject [REDACTED] while on  
Huntingdon College campus, Montgomery, Ala., on business  
for his employer, Student Nonviolent Coordinating Committee;  
at time of arrest was told he was charged with conspiracy  
against State of Alabama, but no warrant shown. Later same  
date was charged with vagrancy and held under \$1,000 bond  
on orders of Deputy Circuit Solicitor MAURY SMITH; was placed  
in Montgomery City Jail and was released on \$300 bond after  
being found guilty of vagrancy in Records Court and  
appealing to Circuit Court 1/10/63; states vagrancy charge  
subsequently dismissed. Montgomery County Jail records  
do not reflect booking of ZELLNER except on false pretense  
charge 1/23/63 after being bound over from Records Court;  
was released same date on \$500 bond. Montgomery City Jail  
records reflect ZELLNER booked 12:10 a.m., 1/9/63, on vagrancy  
charge, arresting officer Lt. J.D. SHOWS, marked "\$1,000  
bond on order of Solicitor". Released 10:40 a.m., 1/10/63,  
on \$400 appeal bond; also booked Montgomery City Jail 10:15  
a.m., 1/10/63 on false pretense charge; released 10:40 a.m.  
same date on \$500 bond. Montgomery City Records Court  
records reflect victim found guilty on vagrancy charge  
1/9/63 and was sentenced on 1/10/63 to 30 days hard labor;  
appealed to Circuit Court and bond of \$300 set. Records  
of Montgomery Circuit Court Clerk reflect vagrancy charge  
against victim appealed from Records Court dismissed by  
Circuit Court 2/12/63 on motion of City Prosecutor. Subjects

b7c MO 44-901

b7c [REDACTED] LINGO declined to make statement on advice of attorney. [REDACTED] Montgomery, Ala., advised was contacted by State authorities a few days before the 1963 inauguration of the Governor of Alabama who told him they had received confidential information that ZELLNER had come to Montgomery to organize demonstrations to be made during the inaugural parade and had organized demonstrators at Alabama State College and placards to be used during the demonstration had been prepared on the college campus. State authorities expressed concern that violence and rioting would result if such demonstrations took place. He states he explained state laws on conspiracy to these authorities; states later received call from these authorities stating ZELLNER had just been arrested on Huntingdon College campus after they received call from informant that ZELLNER was on Huntingdon College campus and, due to student resentment toward him, there might be trouble on the campus. He was told subject arrested on conspiracy charge. After conferring with these authorities he questioned strength of a conspiracy charge and attempted to persuade college authorities to sign trespassing after warning warrant against ZELLNER, however college official declined, stating college would not want publicity which would attend this action. States after questioning ZELLNER in the presence of his attorney CLIFFORD DURR that same night, during which questioning ZELLNER refused to advise why he was in Montgomery, who he worked for and where he was staying, he ordered [REDACTED] Montgomery PD, who was present, to sign a vagrancy warrant against ZELLNER, which was done; states this vagrancy charge was later dismissed at the request of the City Prosecutor after ZELLNER testified in City Records Court as to his employment and purpose of his being in Montgomery. USA, Montgomery, states in his opinion case without prosecutive merit and feels no further investigation should be conducted.

-C-

ENCLOSURES:

TO UNITED STATES ATTORNEY, MONTGOMERY

One (1) copy of petition filed on behalf of ZELLNER in United States District Court, Middle District of Alabama, February 26, 1963. One (1) copy of order of Fifth U.S. Circuit Court of Appeals Judge RICHARD T. RIVES, February 26, 1963.



MO 44-901

DETAILS:

b7c This investigation is predicated upon receipt from the Bureau under date of February 26, 1963 of information that the Department of Justice advised on February 26, 1963 that they had received a complaint concerning the arrest of JOHN ROBERT ZELLNER on or about January 8, 1963 [REDACTED] ZELLNER at the time of his arrest on a charge of conspiracy was on the campus of Huntingdon College. The arrest was based on ZELLNER's efforts to organize demonstrations on the campus. Subsequent to his arrest and while in custody, the charge was changed to vagrancy and he was convicted on this charge. Conviction was appealed to the Circuit Court, Montgomery, Alabama, and the vagrancy charge was dismissed on February 12, 1963. The Department requested that a preliminary investigation be conducted into the initial arrest of ZELLNER on the charges of conspiracy, the subsequent changing of the charges to vagrancy upon which he was convicted and the subsequent dismissal of the charges by the Circuit Court.

This is a preliminary investigation.

AT MONTGOMERY, ALABAMA

1

Date March 7, 1963

[redacted] was interviewed in the office of and in the presence of [redacted]. At the beginning of this interview [redacted] presented interviewing Agents with a sheet of paper containing the following statement:

b7C  
b7D

[redacted]

"This the first day of March, 1963.

[redacted]  
[redacted] furnished the following information:

[redacted]

On 3/1/63 at Montgomery, Alabama File # MO 44-901  
by SAs [redacted] and [redacted] b7C /gre Date dictated 3/1/63

XXXXXX  
XXXXXX  
XXXXXXFEDERAL BUREAU OF INVESTIGATION  
FOIPA  
DELETED PAGE INFORMATION SHEET2

Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☒

Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552Section 552a☐ (b)(1)☐ (b)(7)(A)☐ (d)(5)☐ (b)(2)☐ (b)(7)(B)☐ (j)(2)☐ (b)(3)☒ (b)(7)(C)☐ (k)(1)☒ (b)(7)(D)☐ (k)(2)☐ (b)(7)(E)☐ (k)(3)☐ (b)(7)(F)☐ (k)(4)☐ (b)(4)☐ (b)(8)☐ (k)(5)☐ (b)(5)☐ (b)(9)☐ (k)(6)☐ (b)(6)☐ (k)(7)

☐ Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

Pages were not considered for release as they are duplicative of \_\_\_\_\_

Page(s) withheld for the following reason(s): \_\_\_\_\_

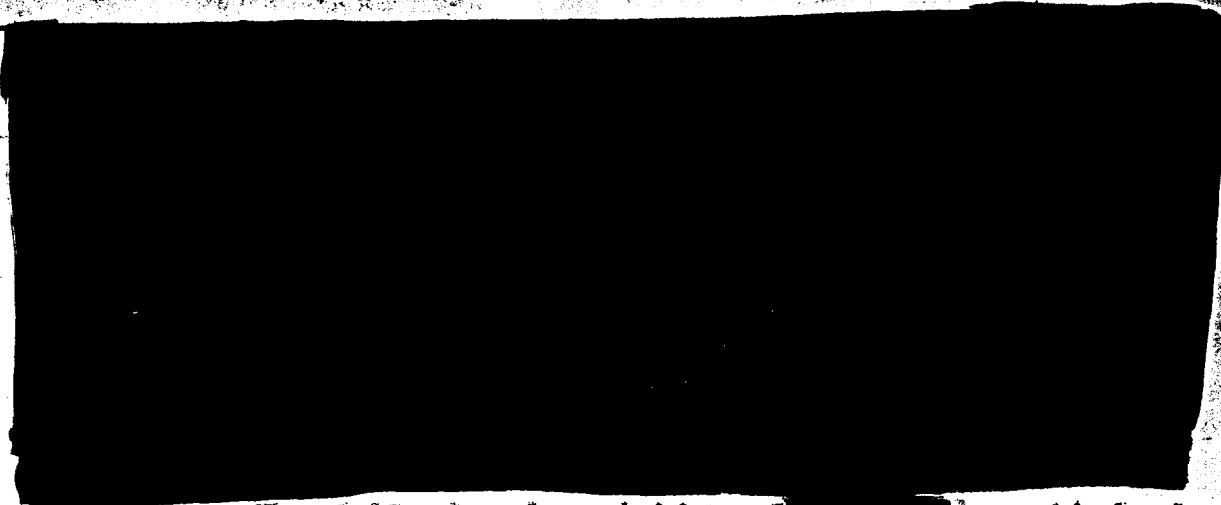
☒

The following number is to be used for reference regarding these pages:

44-21480-12 pgs 5-6.

XXXXXXXXXXXXXXXXXXXX  
X Deleted Page(s) X  
X No Duplication Fee X  
X for this page X  
XXXXXXXXXXXXXXXXXXXXXXXXXX  
XXXXXX  
XXXXXX

4  
MO 44-901



The following description of [redacted] was obtained through interview and observation:

b7C  
b7D

Race	White
Sex	Male
Date of Birth	[redacted]
Place of Birth	[redacted]
Height	5'11"
Weight	185 lbs.
Build	Medium Heavy
Eyes	Hazel
Hair	Dark Brown
Complexion	Fair
Education	[redacted]
Occupation	[redacted]

Marital Status  
Address

[redacted]  
Single  
[redacted]

Mr. DURR has not made available to the Agents who interviewed [REDACTED] any additional supplementary information furnished to him by [REDACTED]

On March 4, 1963, [REDACTED] of United States District Court for the Middle District of Alabama, made available copies of the petition filed February 26, 1963 on behalf of JOHN ROBERT ZELLNER, Plaintiff. It is noted that this petition for a restraining order was accompanied by affidavits by ZELLNER and by CLIFFORD J. DURR. The order of Judge FRANK M. JOHNSON, JR. is handwritten at the end of the petition.

[REDACTED] advised that that part of the petition asking for a permanent restraining order is still pending before Judge JOHNSON.

[REDACTED] also made available copies of an order of Fifth Circuit Court of Appeals Judge RICHARD T. RIVES which was filed on February 26, 1963.

Copies of the petition accompanied by the affidavits of ZELLNER and DURR and of the order of Judge RIVES are accompanying this report.

On March 4, 1963, [REDACTED] made available the jail docket at the Montgomery, Alabama, City Jail. Docket No. 2598 reflected that ROBERT ZELLNER was booked at 12:10 a.m., January 9, 1963, with Lieutenant J. D. SHOWS shown as the arresting officer. The arrest was on vagrancy charge and there was a notation "\$1,000 bond order of solicitor". The docket reflected ZELLNER went to court on January 9, 1963 and again on January 10, 1963, on the later date being sentenced to thirty days hard labor. Docket reflects he was released at 10:40 a.m., January 10, 1963.

Docket No. 2624 reflects ROBERT ZELLNER was booked on a false pretense charge at 10:15 a.m., January 10, 1963, on a warrant and the arresting officer shown as Lieutenant J. D. SHOWS. The docket reflects ZELLNER's release at 10:30 a.m., January 10, 1963, on this charge under \$500 bond.

On March 4, 1963 [REDACTED]



MO 44-901

b7c Montgomery County Jail advised that the only entry in his book for ROBERT ZELLNER is under date of January 23, 1963 when he was booked on a false pretenses charge after being bound over from City Records Court. He stated his book reflects ZELLNER was released under \$500 bond on that same date. A check of the County Jail docket book failed to reflect an arrest or booking entry for ZELLNER on January 8, 1963. [redacted] advised that he recalls being told that ZELLNER was brought to the County Jail and held briefly one night while being investigated and was removed on that same night to the City Jail.

b7c On March 4, 1963 [redacted] Montgomery City Records Court, made available Docket No. 70847. A review of this docket reflects that ROBERT ZELLNER, Atlanta, Georgia, arrested 12:10 a.m. that same date by Lieutenant J. D. SHOWS on a vagrancy charge was tried in City Records Court. This docket reflects that on January 10, 1963 ZELLNER was sentenced to thirty days hard labor and was released on that same date under \$300 cash bond after an appeal to Montgomery Circuit Court had been filed.

[redacted] advised that there was no record in his docket of a conspiracy charge against ZELLNER.

On March 4, 1963 [redacted] Montgomery Circuit Court, made available Docket No. 235 pertaining to ROBERT ZELLNER. A review of this docket reflected that on February 12, 1963 a case of vagrancy against ZELLNER which had been appealed to Circuit Court after ZELLNER was found guilty in City Records Court, and sentenced to thirty days hard labor, was dismissed by Circuit Judge EUGENE CARTER on a motion of the City Attorney.

[redacted] advised that there is no entry in his docket book reflecting a conspiracy charge against ZELLNER.

A by-line article appearing in the Alabama Journal, a daily Montgomery newspaper, of January 9, 1963 written by staff writers GENE KOVARIK and DAVE CHESNUTT, stated in part that "testimony in City Court today revealed the incoming Director of the Department of Public Safety, who doesn't take office until Monday, participated in the arrest without a warrant of a pro-integration leader Tuesday night on the Huntingdon College campus. JOHN ROBERT

MO 44-901

ZELLNER, 23 year old Field Secretary of the Student Non-violent Coordinating Committee, was found guilty of vagrancy and Judge EUGENE LOE ordered him held in City Jail without bond until sentencing Thursday in Records Court at 8:30 a.m.

"State Investigator WILLIE B. PAINTER told the court that AL LINGO, incoming Director of Public Safety, asked to be in on the arrest 'in the best interest of the state'. The Journal has learned from reliable sources that LINGO went to State Investigators yesterday and asked that action be taken against ZELLNER.

"The State Investigator testified that ZELLNER was picked up and charged after confidential information was received that he was here in the city to organize demonstrations on inauguration day, Monday.

"ZELLNER was arrested on Huntingdon campus about 7:30 p.m., PAINTER explained, and was first told that the charge was 'conspiracy'. He pointed out that the charge was later changed to vagrancy upon the recommendation of Assistant Solicitor MAURY SMITH several hours later at the Montgomery County Jail.

"Under cross examination by CLIFFORD DURR, attorney for ZELLNER, PAINTER admitted there wasn't a warrant when the defendant was arrested. The warrant was later signed by Detective Lieutenant JACK SHOWS of the local police.

"PAINTER said LINGO suggested to go along in the arrest in the best interest of the state to 'prevent violence' after a confidential source said ZELLNER, a former Huntingdon student, was here to organize demonstrations for the inauguration.

"LOE overruled a motion by DURR who sought to find out the identity of the informant.

"ZELLNER declined to testify and the City Judge ordered him held without bond over his attorney's protest. Bond was set at \$1,000 when he was arrested last night."

The article continued "PAINTER earlier in the hearing said three people were present at the time of the arrest. They were LINGO, a person named JOHN HILL and



MO 44-901

another named SAM SHIRAH, JR.

"SHIRAH was present at today's hearing and offered some testimony before he invoked the Fifth Amendment upon the advice of DURR.

"He was called as a prosecution witness by SMITH who informed the court that SHIRAH would probably be a hostile witness. SHIRAH, of DeFuniak Springs, Florida, admitted, under questioning of SMITH, that he was a former student at Huntingdon and left the college upon the request of college officials.

"The former Huntingdon student said that he knew ZELLNER was in Montgomery Saturday and met him at the home of DURR.

"He invoked the Fifth Amendment after SMITH asked the question: 'Did you and Mr. ZELLNER draw up plans for demonstration in Montgomery?'.

"However in an interview with the Journal earlier this morning SHIRAH revealed the events leading to ZELLNER's arrest.

"He said he and ZELLNER had been invited by some friends to visit them and have supper with them in the college dining hall.

"After supper SHIRAH said he and ZELLNER were in front of the Student Center when they noticed two men sitting in a car.

"As ZELLNER walked past the car, SHIRAH said ZELLNER turned to him and said 'Well, there's PAINTER'. SHIRAH said the car followed them as they walked across the campus.

"When they were in front of one of the dormitories SHIRAH said the car drew up beside them and the thin man on the passenger seat called out to ZELLNER.

"The man got out of the car, came over to BOB and started searching him. While he was doing this ZELLNER asked him if he were under arrest.

"The man answered yes and ZELLNER asked on what

MO 44-901

charges. The man said conspiracy.

"SHIRAH said the man put ZELLNER in the back seat of the car and after some discussion about ZELLNER's car the two men drove off with ZELLNER."

Date March 15, 19631

Investigative and Identification Division, Alabama Department of Public Safety was advised that he did not have to make any statement, that any statement he made could be used against him in a court of law, and that he had a right to consult an attorney if he so desired. No threats or promises were made.

b7c [redacted] advised that he was perfectly willing to give a statement concerning his knowledge of the arrest of ZELMER, as he had nothing whatever to hide in connection with this arrest, however, since he was a subordinate employee in the Department of Public Safety, it would be necessary for him to consult with his Director, ALBERT J. LINGG, who was at that time out of the city, prior to making any statement.

The following description of [redacted] was obtained through interview and observation:

Race	White
Sex	Male
Date of Birth	[redacted]
Place of Birth	Dale County, Alabama
Height	6'1"
Weight	180 pounds
Build	Medium
Eyes	Blue
Hair	Black, thinning.
Complexion	Medium

On 3/6/63 at Montgomery, Alabama File # NO 44-901

by SA [redacted] /lrb Date dictated 3/12/63

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Date March 15, 19631

ALBERT J. LINGO, Director, Alabama Department of Public Safety, was advised that he did not have to make any statement, that any statement he made could be used against him in a court of law, and that he had a right to consult an attorney if he so desired.

LINGO advised that he had no hesitancy whatever in making a statement concerning his knowledge of the arrest of ZEKIMER, however since the case against ZEKIMER is still pending in Montgomery Circuit Court, he felt it advisable to consult his attorney before making any statement, in order to determine just how detailed his statement should be.

The following description of ALBERT J. LINGO was obtained through interview and observation:

Race	White
Sex	Male
Date of Birth	January 22, 1910
Place of Birth	Clayton, Alabama
Height	6'1"
Weight	210 pounds
Build	Heavy
Eyes	Blue
Hair	Gray, balding.
Complexion	Ruddy

On 3/11/63 at Montgomery, Alabama File # MO 44-901

by SA [REDACTED] /lrh Date dictated 3/12/63

## FEDERAL BUREAU OF INVESTIGATION

Date March 15, 19631

ALBERT J. LINGO, Director, Alabama Department of Public Safety, advised that his attorney had advised him to make no statement whatever in connection with his knowledge of the arrest of ZELINGER, therefore, he would be forced to decline to make any statement.

On 3/12/63 at Montgomery, Alabama File # NO 44-901  
by b7c SA [REDACTED] /lfb Date dictated 3/13/63

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.



Date March 15, 19631

b7c

[REDACTED] Investigative and Identification Division, Alabama Department of Public Safety, advised that in view of the advice given to his superior, Director of Department of Public Safety ALBERT J. LINGO, that he should make no statement whatever concerning his knowledge of the arrest of ZELMER, he would have to decline to make any statements in this regard.

On 3/12/63 at Montgomery, Alabama File # MO 44-901  
by SA [REDACTED] /afv Date dictated 3/13/63

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.



Date March 15, 1963

1

Montgomery County, Alabama, furnished the following information:

A few days before the 1963 inauguration of Governor of Alabama, state authorities, whom he declined to name, came to him and advised him they had received confidential information, the source of [redacted] declined to name, that ROBERT ZELMER had come to Montgomery, Alabama for the purpose of organizing demonstrations to be made during the inaugural parade. These authorities had further evidence that ZELMER had been to Alabama State College, which he described as a Negro school, and had organized demonstrators as well as having assisted in the preparation of placards which were to be used during the demonstrations.

b7c These state authorities expressed grave concern that if such demonstration by Negroes and white persons occurred during the inaugural parade or other inaugural ceremonies that violence and rioting would occur toward the demonstrators.

[redacted] explained to these state authorities the state laws on conspiracy with the thought in mind that a violation of the conspiracy laws might occur on the part of ZELMER and others.

Either that same night or the following night, [redacted] received a telephone call from one of the authorities with whom he consulted, the call being received at approximately 8:30 p.m. at his home, stating that ZELMER had been arrested on the Huntington College campus after a call had been received by the state authorities from an informant, who is a high official at Huntington College, advising them that ZELMER was on the campus, and in view of the student resentment toward him, the informant feared there might be trouble on the campus. [redacted] inquired as to what charge the subject was arrested on and was told that he had been told he was arrested for conspiracy.

On 3/12/63 at Montgomery, Alabama File # MO 44-901

by b7c SA [redacted] /lsb Date dictated 3/13/63

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

NO 44-901

[redacted] went to the Montgomery County Sheriff's Office and conferred with the state authorities. During this time he learned that ZELINER had thrown his wallet out of the car window on the campus after his arrest, but the wallet had been found by a student who turned it in to an official of the college, who in turn, called the authorities and reported this find.

[redacted] questioned the strength of the conspiracy charge against ZELINER and believing that the charge of trespass after warning would be a more suitable charge, he called an official of Huntingdon College, whom he declined to name, and attempted to persuade him to come down and sign a trespassing after warning warrant against ZELINER. This official declined to sign a warrant, stating that the college would not want the publicity which would attend such an action.

Thereafter, in an effort to determine what a proper charge, if any, would be against ZELINER, he decided to talk to ZELINER to determine exactly his reasons for being in Montgomery and to determine if there were any extenuating circumstances.

He had ZELINER brought to him and told him he wanted to ask him some questions. ZELINER stated he did not want to say anything unless his attorney, CLIFFORD DURR were present.

DURR was then called and came to the Sheriff's Office and had a conference with ZELINER.

Thereafter, [redacted] in the presence of DURR, asked ZELINER his name. ZELINER stated at first that he refused to answer that question on the grounds it might incriminate him. [redacted] said to DURR "You mean you will not let your client give his name?" DURR then advised ZELINER to furnish his name, which was done. [redacted] then asked ZELINER for whom he worked and ZELINER refused to answer this question. [redacted] then asked ZELINER what he was doing in Montgomery and ZELINER refused to answer this question. [redacted] then asked ZELINER where he was staying in Montgomery and ZELINER refused to answer this question.

3  
MO 44-901

SMITH then asked DARR if he concurred with ZELLNER in these refusals to answer his questions and DARR stated that he did.

[REDACTED] stated that since a prima facie case of vagrancy had been established as a result of ZELLNER refusing to answer his questions, [REDACTED]

[REDACTED] stated it is his understanding that Governor JOHN PATTERSON had issued this order that State Investigators should not sign the warrant. [REDACTED]

b7c  
b7D  
[REDACTED] This was done.

When this vagrancy case was heard in City Recorders Court ZELLNER did not testify and was found guilty and sentenced to thirty days hard labor which sentence ZELLNER appealed.

When the contents of ZELLNER's wallet were examined it was learned that he had purchased a camera from the City Pawn Shop in Montgomery on the same day he was arrested. Subsequent investigation revealed that ZELLNER had issued an insufficient funds check for this camera.

[REDACTED] conferred with DARR and told him he wanted to see ZELLNER's bank account status before proceeding against ZELLNER on a false pretense charge. DARR had ZELLNER make available records of his bank account and a review of these records reflected ZELLNER had had a very small balance in an Atlanta bank over a period of two months and showed five service charges in one month, which to [REDACTED] indicated a pattern of writing insufficient funds checks. At this time he offered to DARR to allow ZELLNER to plead guilty and take a \$100 fine and a suspended sentence on either of the charges and that he would drop the other. He told DARR that he wanted to be fair to ZELLNER and he felt that ZELLNER would be unable to get a fair trial in Montgomery County because of his record of integration activities.

DARR told him he would confer with his client

MO 44-901

and later advised that ZELNER stated he would not compromise on either case.

At ZELNER's hearing in Recorders Court in Montgomery on the false pretense charge, ZELNER testified that he was employed by the Student Nonviolent Coordinating Committee and that he was in Montgomery on business for his employer. In view of the establishment of ZELNER's employment and his reason for being in Montgomery, City Prosecutor DAVE CROSLAND subsequently requested the Montgomery Circuit Court to nolle pross the vagrancy charge which was done.

[REDACTED] was unable to recall the specific dates of any of the actions above described. He advised that the trial of ZELNER in Montgomery Circuit Court on false pretense charges ended in a mistrial on February 28, 1963 due to the fact that the jury could not arrive at a verdict.

b7c [REDACTED] stated that he made an offer subsequent to the trial to ZELNER's attorney that he would accept a plea of guilty with a \$100 fine at any time and ZELNER's attorney stated that he would consider this offer.

[REDACTED] advised that unless ZELNER pleads guilty before the May, 1963 term of court, he will again be tried in Montgomery Circuit Court on a charge of false pretenses.

MO 44-901

On March 13, 1963 the facts of this case were discussed with United States Attorney BEN HARDEMAN. Mr. HARDEMAN advised that he does not think the civil rights case has prosecutive merit and feels that no further investigation should be conducted. Mr. HARDEMAN stated however that if the Department of Justice feels that further investigation is advisable in his opinion it would be in the best interests of the government and of ZELLNER to wait until the state charges against ZELLNER are disposed of before any additional investigation is conducted.



F B I

Date: 3/20/63

Transmit the following in \_\_\_\_\_

(Type in plain text or code)

Via AIRTELAIRMAIL

(Priority or Method of Mailing)

TO : Director, FBI (44-21480)

FROM : SAC, Mobile (44-901)

b7c SUBJECT: [REDACTED]

Investigative and Identification  
 Division, Alabama Department of  
 Public Safety, Montgomery, Ala.;  
 ALBERT J. LINGO, Director,  
 Alabama Department of Public  
 Safety, Montgomery, Ala.:  
 JOHN ROBERT ZELLNER - VICTIM  
 CR

Re Mobile letter 3/15/63.

Enclosed herewith is letterhead memo pertaining  
 to news article in Montgomery Advertiser, Montgomery, Ala.,  
 3/16/63.

3 - Bureau (Enc. 8) (RM)  
 1 - Mobile  
 ERT:egp  
 (4)

ENCLOSURE

1cc of LHM to CRD

6-94-11-3-22-63

JWH, [REDACTED]

b7c [REDACTED]  
1cc of LHM CR Unit

REC-28

44-21480-14

MAR 22 1963

234 EX-112

b7c [REDACTED]

Approved: \_\_\_\_\_

ERT

Sent \_\_\_\_\_

M

Per \_\_\_\_\_

Special Agent in Charge

62 MAR 28 1963





UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to  
File No.

Mobile, Alabama  
March 20, 1963

b7c

[REDACTED]  
Investigative and Identification  
Division, Alabama Department of  
Public Safety, Montgomery,  
Alabama;  
ALBERT J. LINGO, Director,  
Alabama Department of Public  
Safety, Montgomery, Alabama;  
JOHN ROBERT ZELLNER - VICTIM

The following information appeared in the  
Montgomery Advertiser, daily newspaper published at  
Montgomery, Alabama, for Saturday, March 16, 1963:

"A motion to dismiss an injunction request by  
integrationist Robert Zellner has been filed in U. S.  
District Court by Alabama Public Safety Director Al  
Lingo.

"Zellner's attorney had gone into federal  
court to ask that Lingo and his agents be enjoined from  
the harassment and intimidation Zellner said he had been  
subjected to.

"He has also sought to have the court take over  
a fraudulent pretense case against Zellner, but both District  
Judge Frank M. Johnson, Jr., and Circuit Judge Richard T.  
Rives declined.

"Zellner had charged constant surveillance by  
Lingo's agents, who he said even stood watch at the funeral  
of his grandmother. According to Zellner, it was Lingo  
who arrested him here on the Huntingdon College Campus.

"After Zellner was arrested, he was first charged  
with vagrancy, but this charge was dropped by the city when

UNITED STATES GOVERNMENT

# Memorandum

TO : DIRECTOR, FBI (44-21480)

DATE: 3/15/63

FROM : SAC, MOBILE (44-901) (C)

b7c  
L  
SUBJECT: [REDACTED] Investigative  
and Identification Division,  
Alabama Department of Public  
Safety, Montgomery, Ala.;  
ALBERT J. LINGO, Director,  
Alabama Department of Public  
Safety, Montgomery, Ala.;  
JOHN ROBERT ZELLNER - VICTIM  
CR

Re Bureau airtel to Mobile, 2/26/63.

Enclosed herewith is letterhead memorandum re-  
flecting statement by Governor GEORGE WALLACE of Alabama  
at the time he was advised the investigation in this case  
was to be conducted.

1cc CRD of LM  
3-19-63 - 6-94-A  
GWH/cjw

1cc CR Unit

ENCLOSURE  
2-Bureau (Enc. 8)  
1-Mobile  
SHR/lfb  
(3)

REC-9

EX-112

44-21480-13  
MAR 18 1963  
FBI

50 MAR 27 1963



In Reply, Please Refer to  
File No.

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

Mobile, Alabama  
March 15, 1963

b7C

[REDACTED] Investigative  
and Identification Division,  
Alabama Department of Public  
Safety, Montgomery, Alabama;  
ALBERT J. LINGO, Director,  
Alabama Department of Public  
Safety, Montgomery, Alabama;  
JOHN ROBERT ZELLNER - VICTIM

In view of the fact that employees of the state of Alabama were involved as subjects in this investigation, Governor GEORGE WALLACE of Alabama was contacted at his office in the State Capitol building in Montgomery, Alabama on March 11, 1963 by Special Agents [REDACTED] and was advised that a preliminary investigation was being conducted in this case.

Governor WALLACE volunteered the following statement. When he learned from Mr. LINGO that ZELLNER was trying to organize Negroes to demonstrate during his inaugural parade, he became deeply concerned, as he realized that such a demonstration in the presence of the many thousands of people who would attend the inaugural ceremonies would undoubtedly provoke many "hotheads" in the crowd to violence and there would be rioting and bloodshed, with many persons injured or killed. He told LINGO that if these demonstrations could not be prevented, he would call off his inaugural parade.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

WILLIE B. PAINTER

he appealed a Recorder's Court conviction to Circuit Court.

"A false pretense charge was then brought against the youthful integration leader. The case ended in a mistrial in Circuit Court. Zellner was charged with buying a camera at a local pawnshop when he knew the check was not covered by sufficient funds.

"Lingo sought to have the federal court throw out the case on the grounds that it did not have jurisdiction over the investigative function of a state agency enforcing the laws of Alabama.

"A second motion filed by Lingo's attorneys, John Kohn and Hugh Maddox, asked that 'unduly prolix' paragraphs be stricken from Zellner's complaint.

"Special exception was taken to the charge that Zellner was harassed by 'tormentors' which was termed 'impertinent and scandalous' by Lingo's lawyers.

"A third motion asked by Zellner be represented by an attorney in the federal court district. This was based on a rule promulgated by Johnson in 1961, when he specified that local attorneys should be represented on either side in civil rights cases.

"Zellner's attorney is Charles Morgan of Birmingham.

"A fourth motion asked that Zellner post a bond to cover court costs, since he is a Georgia resident."

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.



3-27-63

Airtel

EX-102

To: SAC, Mobile (44-991)

From: Director, FBI (44-21480) - 15

JOHN EDGAR HOOVER - VICTIM  
CIVIL RIGHTS

Re: Rep SA [redacted] dated 3-15-63 at Mobile.

Enclosed herewith are two copies of a memorandum from the Department requesting additional investigation in this matter.

Handle the requested interviews advising persons interviewed that the investigation is being conducted at the request of Mr. Burke Marshall, Assistant Attorney General, Civil Rights Division, Department of Justice.

Agents conducting the interviews should thoroughly familiarize themselves with the allegations set forth in the complaint of *Xellner v. Thorford, et al.*, of which your office has a copy in order that the interviews will be complete and in accordance with Department's request.

Reply within three days of receipt of this airtel setting forth results of the interviews and indicating in the report that it is a limited investigation.

Enclosures (2)

JWH:cac  
(4) *cac*



SEE NOTE PAGE TWO.

Tolson \_\_\_\_\_  
Belmont \_\_\_\_\_  
Mohr \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Evans \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

MAIL ROOM ☒ TELETYPE UNIT ☐

**NOTE:**

b7c [ At request of the Department we previously conducted a preliminary investigation into the arrest of Zellner 1-8-63 in Huntingdon College campus by subjects Painter and Al Lingo, Alabama Public Safety Director for conspiracy. He was subsequently charged with vagrancy, tried, convicted, and on appeal, conviction, was dismissed. Investigation conducted reflects that Mann, who was at the time of Zellner's arrest the Alabama Public Safety Commissioner, and [redacted] an [redacted] to Governor, were both opposed to making the arrest which was then made by Painter and Lingo on instructions of Governor Wallace. The Department requests interview of [redacted] re Zellner's allegations in civil action to enjoin Alabama authorities from interfering with his activities. These allegations specifically concern his arrest and subsequent handling.



XXXXXX  
XXXXXX  
XXXXXXFEDERAL BUREAU OF INVESTIGATION  
FOIPA  
DELETED PAGE INFORMATION SHEET

1 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- ☐ Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552Section 552a☐ (b)(1)☐ (b)(7)(A)☐ (d)(5)☐ (b)(2)☐ (b)(7)(B)☐ (j)(2)☐ (b)(3)☐ (b)(7)(C)☐ (k)(1)☐ (b)(7)(D)☐ (k)(2)☐ (b)(7)(E)☐ (k)(3)☐ (b)(7)(F)☐ (k)(4)☐ (b)(4)☐ (b)(8)☐ (k)(5)☐ (b)(5)☐ (b)(9)☐ (k)(6)☐ (b)(6)☐ (k)(7)

- ☐ Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.

- ☒ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

Pages were not considered for release as they are duplicative of \_\_\_\_\_

Page(s) withheld for the following reason(s): \_\_\_\_\_

- ☒ The following number is to be used for reference regarding these pages:

44-21480-15

XXXXXXXXXXXXXXXXXXXX  
X Deleted Page(s) X  
X No Duplication Fee X  
X for this page X  
XXXXXXXXXXXXXXXXXXXXXXXXXX  
XXXXXX  
XXXXXX

## FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE <b>MOBILE</b>	OFFICE OF ORIGIN <b>MOBILE</b>	DATE <b>4/1/63</b>	INVESTIGATIVE PERIOD <b>3/29 - 4/1/63</b>
TITLE OF CASE <b>ET AL JOHN ROBERT ZELNER - VICTIM</b>		REPORT MADE BY <b>SA [REDACTED] b7c</b>	TYPED BY <b>:leh</b>
		CHARACTER OF CASE <b>CR</b>	

REFERENCE: Bureau airtel to Mobile dated 3/27/63.

- C -

a

EXP. PROC.

APPROVED 	SPECIAL AGENT IN CHARGE	DO NOT WRITE IN SPACES BELOW	
COPIES MADE: 2 - Bureau (44-21480) - (RM) 1 - USA, Montgomery, Ala. 1 - Mobile (44-991)		44-21480-16	REC-17
REC'D - EBI CIA 4/1/63		11 APR 9 1963	EX-115
DISSEMINATION RECORD OF ATTACHED REPORT		NOTATIONS	
AGENCY	1cc CRO	468 3 15 25	
REQUEST RECD.		RECEIVED	
DATE FWD.	4-3-63	STAT. SECT.	
HOW FWD.	6-94-C	CR Unit	
BY	JWH/cjw/14		

54 APR 9 1963

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

Copy to: 1 - U. S. Attorney, Montgomery, Ala.

Report of: SA [REDACTED] b7c Office: MOBILE

Date: April 1, 1963

Field Office File No.: 44-901

Bureau File No.: 44-21480

Title: [REDACTED] ET AL  
JOHN ROBERT ZELLNER - VICTIM

Character: CIVIL RIGHTS

Synopsis: [REDACTED]  
[REDACTED] Montgomery, Ala., declined to furnish statement.  
Statement of [REDACTED] West Point, Ga., set forth.

- C -

DETAILS:

Under date of March 27, 1963, the Bureau forwarded a memo to the Director from Mr. BURKE MARSHALL, Assistant Attorney General, Civil Rights Division, dated March 25, 1963, which contained the following request for investigation:

"Please interview [REDACTED] and [REDACTED] concerning each of the allegations contained in the complaint in Civil Action Number 1896-N, ZELLNER v. THEFFORD, et al., in which their names are mentioned".

This is a limited investigation.

The following investigation was conducted at [REDACTED]  
b7c [REDACTED] Montgomery, Alabama, by SA [REDACTED] and SA [REDACTED]

MO 44-901

After [REDACTED] was advised by interviewing agents of the nature of the information desired from him, [REDACTED] referred the agents to [REDACTED] and [REDACTED]. After the agents conferred with [REDACTED] and [REDACTED], [REDACTED] stated that it would be necessary for him to discuss the matter with [REDACTED].

Subsequently on the same date [REDACTED] contacted the agents and advised that [REDACTED] had advised as follows:

b7C "The defendant, Mr. AL LINGO, Director, Director of Public Safety of the State of Alabama, delivered a summons and complaint in the case of ROBERT ZELLNER, Plaintiff v. WILLIAM F. THETFORD, et al, Defendants, to the Attorney General's Office shortly after service thereof upon him. Thereafter his personal counsel requested the Attorney General's Office to appear for the above named defendant public officer. The Attorney General and Assistant Attorney General GORDON MADISON, Senior Trial Lawyer on the Attorney General's Staff, thereafter joined with Mr. LINGO's personal counsel in filing certain motions in the case on Mr. LINGO's behalf. One of the mentioned motions was to dismiss. This motion was granted on March 21, 1963, and the case dismissed without prejudice, however, to the plaintiff filing an amended complaint conforming to federal rules of civil procedure within twenty days. Plaintiff has now asked for additional time in which to refile a complaint.

By coincidence, [REDACTED] who is referred to in certain paragraphs of the original complaint in this case, presently is serving as [REDACTED] and is assigned to the [REDACTED] of that office. The Civil Division of the Attorney General's Office is in charge of that office's participation in defense of this case. [REDACTED] was serving as [REDACTED] and was assigned to the Civil Division of that office prior to the filing of the above mentioned suit in United States District Court.

MO 44-901

1  
Prior to his appointment as [REDACTED]  
[REDACTED] served as [REDACTED] to Governor  
JOHN PATTERSON.

b7C  
1  
Noting circumstances mentioned, the Alabama  
Attorney General's Office does not deem it advisable for  
[REDACTED] to make a statement at this time."

[REDACTED] advised agents that he was unable to  
furnish any information in view of the decision of the  
Attorney General, RICHMOND FLOWERS.



## FEDERAL BUREAU OF INVESTIGATION

Date: 3/1/63

b7c [redacted] after being advised of the nature of the investigation, voluntarily furnished the following statement [redacted] whom he knows to be Special Agents with the Federal Bureau of Investigation. At the completion of the statement [redacted] advised that he preferred not to sign it but that the information related was true. This statement is quoted below:

[redacted]  
West Point, Georgia

b7c "I, [redacted] after being advised of the nature of the investigation, voluntarily furnish the following statement to [redacted] who I know to be Special Agents with the Federal Bureau of Investigation.

"I am 42 years of age and was born [redacted] in Daviston, Alabama. My residence is [redacted]

"On January 8, 1963 I was [redacted] State of Alabama.

"I was at the state capitol listening to Governor Patterson's farewell address to the legislature. Around 4:30 or 5:00 P.M. that day I returned to my office. Al Lingo, incoming Director of Public Safety for the George Wallace administration was waiting in my office.

"Lingo asked me if I had heard that Robert Zellner was in town. I told him that I knew this. Lingo then asked me if I would give him permission to have Zellner arrested. I told him that he did not need my permission to have anyone arrested who had violated the law.

"I then suggested that we have a cup of coffee so we drove in my car to the Elite Cafe in downtown

b7c On 3/30/63 at West Point, Georgia File # MD 44-901

by SA [redacted] mfh Date dictated 3/31/63



Montgomery, Alabama. After ordering coffee I told Lingo that I was not trying to run his business but if I were him I would not be 'stampeded' into arresting someone at this time unless on good legal ground, because a person like this could cause a lot of trouble because of expert legal counsel behind him.

"Lingo showed me a snapshot of a negro girl which had the following quotation on the back: 'It is better to have loved and lost than to have never loved at all'. I got the impression in talking to Lingo that this picture had been taken from the person of Zellner when he was arrested in the past at Talledega, Alabama.

b7c

"Lingo also had a memorandum signed [redacted] to Chief W. R. Jones, Department of Public Safety, from some confidential source, showing why Zellner was in Montgomery, Alabama. To the best of my recollection this memorandum stated that Zellner was in Montgomery for the purpose of organizing some type of demonstration during the Wallace inauguration.

"Lingo told me that he had to arrest Zellner because George Wallace wanted him arrested. I asked him who would sign the warrant.

b7c

"Lingo told me that there had been a meeting that afternoon in the Department of Public Safety Building while I was at the capitol, and they had discussed the matter concerning the arrest of Zellner. Lingo told me that [redacted] Montgomery County agreed to issue the warrant.

"Regarding complaint #17 in Civil Action #1896-N I said nothing to Lingo or anyone else concerning that statement.

"Around 6 P.M. that same day we left the Elite Cafe and I drove Lingo to his residence. I then drove on home. After I got home I began to think

MD 44-901

3

about what Lingo had told me about the warrant. I then called [redacted] at his home. [redacted] told me that he had just left the house. I called the District Alabama Highway Patrol Office in an effort to reach [redacted] by radio. They were unable to make contact with him. I left instructions for them to keep trying to locate [redacted] and to notify me when he was located. The purpose of my trying to locate [redacted] was to advise him that under no circumstances was he to arrest Zellner without a warrant.

b7C [redacted] telephoned me later that evening at my home. He was calling from the Montgomery County Jail. I told him of the purpose of my trying to reach him. [redacted] told me that Zellner had already been arrested on the campus of Huntingdon College. I asked him who had signed the warrant. [redacted] said that there wasn't any warrant. I asked him, 'What about the warrant?' [redacted] said that [redacted] and Al Lingo wanted him ([redacted]) to sign the warrant. I asked him what Zellner had been arrested for. He told me, 'Conspiracy'. I asked [redacted] if he could conscientiously sign a warrant. [redacted] answered that he could not. I then told [redacted] not to let anyone at the county jail talk him into signing a warrant.

"After I finished talking [redacted] I telephoned Governor Patterson and related what had happened and what I had told [redacted]. The Governor agreed that no warrant should be signed unless [redacted] could conscientiously do so.

"I then drove to the Montgomery County Jail and picked up [redacted] in front of the building and we went to the Governor's Mansion. [redacted] Governor Patterson's [redacted] was then with the Governor. The four of us conferred about Zellner's arrest. On the basis of what [redacted] told us, we all agreed that there was no legal basis for [redacted] to sign a warrant.

"We were at the Governor's Mansion about thirty minutes then [redacted] and I went to the

ME 44-901

Montgomery County Jail. Al Lingo and [REDACTED] were there when we arrived.

b7c [ The only thing that Lingo said to me at this time was that he (Lingo) had permission to arrest Zellner. I told Lingo that he had my permission to arrest Zellner only with a warrant that [REDACTED] was suppose to have issued that day. Lingo told me that [REDACTED] had told him that afternoon that a warrant would be issued that afternoon, however, he was wondering why one hadn't been issued. I told Lingo that a warrant had not been issued and that [REDACTED] could not conscientiously sign one. To the best of my recollection [REDACTED] told [REDACTED] that unless Zellner had committed a crime, no one in the Department of Public Safety could swear out a warrant against him.

b7c [ "In addition [REDACTED] and Lingo [REDACTED]

Zellner and his attorney were present at the County Jail. There were also some newspaper men.

b7c [ "Before leaving the jail, [REDACTED] talked to Zellner in the presence of his attorney and asked him several questions which he refused to answer under advice of his attorney. [REDACTED] then ordered Policeman Shows to take Zellner to the city jail and charge him with vagrancy."



5/24/63

Airtel

REC-64

To:

SAC, Mobile

From:

Director, FBI

[REDACTED] ET AL.;  
JOHN AMOS BAKER - VICTIM  
CR

6X [ Mobile,

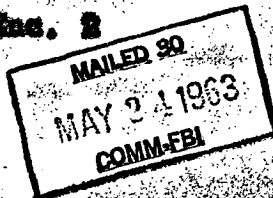
Recep of SA [REDACTED] dated 4/1/63 at

Enclosed herewith are two copies of a self-explanatory memo from the Department requesting additional investigation in this matter.

Handle the Department's request making certain that each point set forth in the Department's memo is fully covered. Make certain that persons interviewed are advised that the investigation is being conducted at the request of Mr. Burke Marshall, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice.

Surep within five days receipt of this airtel setting forth results and indicate in the report that it is a limited investigation.

Enc. 2



JWH:sjs

(4)

Tolson \_\_\_\_\_  
Belmont \_\_\_\_\_  
Mohr \_\_\_\_\_  
Casper \_\_\_\_\_  
Callahan \_\_\_\_\_  
Conrad \_\_\_\_\_  
DeLoach \_\_\_\_\_  
Evans \_\_\_\_\_  
Gale \_\_\_\_\_  
Rosen \_\_\_\_\_  
Sullivan \_\_\_\_\_  
Tavel \_\_\_\_\_  
Trotter \_\_\_\_\_  
Tele. Room \_\_\_\_\_  
Holmes \_\_\_\_\_  
Gandy \_\_\_\_\_

SEE NOTE PAGE TWO.

54 MAY 31 1963  
MAIL ROOM ☒ TELETYPE UNIT ☐

**NOTE:**

67- At the request of the Department, we previously conducted a PI into the arrest of Zellner 1/8/63, on Huntingdon College Campus by subjects [redacted] Al Lingo for conspiracy. The arrest was made at the direction of Governor Wallace several days prior to Lingo's assuming office as Public Safety Director of the State of Alabama. Zellner was subsequently charged with vagrancy, tried and convicted and in the appeal of the conviction the charge was dismissed. Before dismissal of the vagrancy charge Zellner was arrested on a false pretense charge, Birmingham, Alabama, which arose from his purchasing a camera from a pawn shop with check on a Atlanta bank. The false pretense charge was tried and ended in mistrial 2/28/63. All of our previous investigation has dealt primarily with the initial conspiracy and vagrancy charges placed against Zellner. Department now requests we conduct limited investigation relating to the false pretense charges. Governor Wallace and Al Lingo have previously been advised of this investigation and in fact, Lingo has refused to be interviewed.

XXXXXX  
XXXXXX  
XXXXXXFEDERAL BUREAU OF INVESTIGATION  
FOIPA  
DELETED PAGE INFORMATION SHEET

1 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- ☐ Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552Section 552a☐ (b)(1)☐ (b)(7)(A)☐ (d)(5)☐ (b)(2)☐ (b)(7)(B)☐ (j)(2)☐ (b)(3)☐ (b)(7)(C)☐ (k)(1)☐ (b)(7)(D)☐ (k)(2)☐ (b)(7)(E)☐ (k)(3)☐ (b)(7)(F)☐ (k)(4)☐ (b)(4)☐ (b)(8)☐ (k)(5)☐ (b)(5)☐ (b)(9)☐ (k)(6)☐ (b)(6)☐ (k)(7)

- ☐ Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.

- ☒ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

Pages were not considered for release as they are duplicative of \_\_\_\_\_

Page(s) withheld for the following reason(s): \_\_\_\_\_

- ☒ The following number is to be used for reference regarding these pages:

44-21480-17.

XXXXXXXXXXXXXXXXXXXXX  
X Deleted Page(s) X  
X No Duplication Fee X  
X for this page X  
XXXXXXXXXXXXXXXXXXXXX

XXXXXX  
XXXXXX  
XXXXXX



## FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE <b>MOBILE</b>	OFFICE OF ORIGIN <b>MOBILE</b>	DATE <b>5/29/63</b>	INVESTIGATIVE PERIOD <b>5/27-28/63</b>
TITLE OF CASE <b>ET AL: JOHN ROBERT ZELLNER - VICTIM</b>		REPORT MADE BY <b>SA [REDACTED]</b>	TYPED BY <b>b7c :mph</b>
		CHARACTER OF CASE <b>CR</b>	

REFERENCE: Bureau airtel to Mobile 5/24/63

- C -

- A\* -  
COVER PAGE

APPROVED <i>4/0</i>	SPECIAL AGENT IN CHARGE	DO NOT WRITE IN SPACES BELOW	
COPIES MADE: ② - Bureau (44-21480)(AM) 1 - USA, Montgomery 1 - Mobile (44-901)		<b>44-21480-18</b>	REC-5
JUN 11 1963		<b>6-5</b> MAY 31 1963	
DISSEMINATION RECORD OF ATTACHED REPORT		NOTATIONS	
AGENCY	100 CRR		
REQUEST RECD.			
DATE FWD.	6-4-63		
HOW FWD.	6-44-C		
BY	<i>[Signature]</i>		

EXP. PROC.

**UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION**

Copy to: 1 - USA, Montgomery

Report of: SA [REDACTED]  
Date: 5/29/63

Office: MOBILE

Field Office File No: 44-901

Bureau File No: 44-21480

b7c Title: [REDACTED] ET AL:  
JOHN ROBERT ZELLNER - VICTIM

Character: CIVIL RIGHTS

Synopsis: Interviews with [REDACTED] CLIFFORD DURR [REDACTED]

Montgomery, Ala., set forth. New trial for victim set for 7/63 term of Circuit Court in Montgomery Co.

- C -

**DETAILS:**

This investigation is predicated upon receipt from the Bureau under date of May 24, 1963, of a memorandum to the Director from Mr. BURKE MARSHALL, Assistant Attorney General, Civil Rights Division, which contained the following request for investigation:

- b7c
1. Interview [REDACTED] (see page 5 of report dated March 15, 1963), [REDACTED] (see page 5 of report dated March 15, 1963), [REDACTED] (see page 8 of report dated [REDACTED]) (see page 7 of report dated [REDACTED]) Clifford Durr (see page 6 of report dated March 15, 1963) concerning their knowledge of the circumstances surrounding the arrest of and charges placed against victim;
  2. Identify and interview the pawnbroker who sold a camera to victim on January 8 concerning the "false pretense" charge which subsequently was placed

MO 44-901

against victim. Ascertain especially whether the authorities first contacted him or whether he first contacted them relative to the charge; and

3.

Ascertain whether any further action has been taken against victim on the false pretense charge which resulted in a mistrial on February 28, 1963.

This investigation is limited to the above request.

AT MONTGOMERY, ALABAMA



Montgomery, Ala.  
May 28, 1963

"I [redacted], make the following free and voluntary statement to [redacted] who have identified themselves as special agents of the Federal Bureau of Investigation (FBI).

"I am 20 years old and my home address is [redacted]

b7c  
"On a Tuesday, I do not recall the date, six days prior to the inauguration of the new Governor which was in January 1963, Bob Zellner and I were on the campus at Huntingdon College at the request of mutual friends. We ate dinner at the dining hall [redacted] and others. At about 6:45 PM we left the dining hall and went to the snack bar. At about 7:15 pm Zellner, [redacted] and myself walked out of the Student Building. I noticed a car with the motor running and the head lights on as we walked by it going to Zellner's car.

"Zellner remarked 'there's [redacted]'. I looked back and saw that there were two men in the car. The car starting following us as we walked across the campus. The car stayed about 20 to 30 feet behind us until we reached Pratt Hall (Womens Dorm). The car pulled up beside us and the man in the passenger seat called to Zellner to come there. Zellner did not go to the car, but we all stopped walking.

"The man who had called to Zellner then got out of the car and grabbed Zellner and started searching him, patting him about the body.

"At this time I recognized that the driver of the car [redacted] State Investigator [redacted] got out of the car and came around behind it. He called me by name and asked where Zellner's car was. I gave him an evasive answer. He then called [redacted] by his first name and asked where Zellner's

MO 44-901

b7C car was. [redacted] told him he did not know. [redacted] then asked me where the keys were and I told him to ask Zellner.

"Zellner asked while he was being searched if he were under arrest. The man searching him, whom I now know to be Al Lingo, told Zellner he was, and Zellner asked as to the charge and the man said 'conspiracy'.

b7C "While [redacted] was questioning us about the car and the keys, Zellner said he would not answer any questions until after he had consulted a lawyer.

b7C "The man put Zellner in the back seat of the car and got in the front seat on the passenger side. [redacted] got in the car on the driver's side and drove away.

"As soon as I could I went to Clifford Durr's house where I had been staying as a visitor for several days. I told him what had happened and he called the county court house. He was told that Zellner was there but they would not tell him the charge. Mr. Durr told me this.

"About 11 pm Mr. Durr got a telephone call and then I went with him to the court house and sat in his car outside while he went in the court house. When Mr. Durr came out he drove to Huntingdon College and we found the keys to Zellner's car in street gutter at the scene of the arrest. I drove Zellner's car to Mr. Durr's house. Mr. Durr is a local attorney and resides in Montgomery.

"I have read this five page statement and it is true and correct to the best of my knowledge and recollection.

b7C "Witness: [redacted] /s/ [redacted]

Special Agent, FBI, Mobile, Ala.

b7C /s/ [redacted] Special Agent, FBI, Mobile,

Ala."

Montgomery, Ala.  
May 27, 1963

b7c "I [redacted]  
Montgomery, Ala. furnish the following information  
[redacted] who have  
identified themselves to me as Special Agents of  
the Federal Bureau of Investigation.

"I first knew JOHN ROBERT ZELLNER in the  
Fall of 1959 while I was a Freshman at Huntingdon  
College at Montgomery, and he was a Junior at  
the same college. [redacted]

b7c "A few days prior to the inauguration of  
Governor GEORGE C. WALLACE, in January, 1963,  
[redacted] told me in his  
office that BOB ZELLNER was in Montgomery, and  
that he thought that ZELLNER might attempt to  
visit the campus. On the occasion of BOB's  
last visit to the campus, which I believe was  
the Spring of 1962, a large group of students,  
male students, formed outside the dormitory  
where he was visiting, and appeared to be in  
an ugly mood. No acts of violence occurred,  
however [redacted]

b7c [redacted] came to the dormitory and asked ZELLNER  
to leave, because they were afraid that vio-  
lence might break out. In view of this, I  
asked [redacted] what the position of the  
college would be if ZELLNER did attempt to  
visit the campus. He said that as long as  
ZELLNER behaved himself, that he would be treated  
the same as any other alumnus of the college.  
I told [redacted] that I would stay with ZELLNER,  
while he was on the campus, and if it appeared  
that trouble might break out, that I would try  
to persuade ZELLNER to leave the campus [redacted]  
[redacted] said that he had discussed this matter.

[redacted]  
discussing steps which might be taken to prevent  
any incident. I also talked [redacted] and he told  
me that he had already talked to those students



whom he thought might try to cause trouble, and attempted to persuade them to ignore BOB's presence on the campus.

b7c  
"When I returned to the dormitory at about 4:30 PM on that same day, ZELLNER [redacted] outside the dormitory looking for me. We went off campus for coffee, and I asked BOB not to return to the campus anymore that day. I told him what [redacted] had said about his status, but told him that I wanted to make certain preparations to insure that there would be no trouble.

b7c  
"I didn't see ZELLNER again until the following day, shortly before 6 PM when I went to the dining hall for dinner. He was standing in the lobby of the dining hall with [redacted] and some other students. ZELLNER [redacted] three others and I had dinner together and then BOB, and I walked across the campus to the Student Center for coffee. Other students joined us from time to time, and at times the group numbered perhaps nine at the maximum.

"At the dining hall, various students would point at and look toward our table, indicating their awareness of ZELLNER's presence. At the Student Center, it was obvious that several were again aware of ZELLNER's presence. At neither place did I see anything or hear anything which would indicate that any trouble was about to break out.

b7c  
"Sometime between 7 and 8 PM [redacted] we left the Student Center and walked back toward the Dining Hall where BOB had left his car. A car bearing Alabama State tags was parked in the parking lot of the Student Center, and BOB pointed the car out to me, and said that one of the two men in it was [redacted]

I asked him which one was [redacted] said that he was the one behind the wheel.

"While we were walking along, I noticed that the State car was following slowly behind us. In

MO 44-901

b7c front of Pratt-Hanson Hall, the car pulled alongside of us, and the man who was not driving called out something like 'Hold it, ZELLNER.' We stopped, and this man got out and frisked ZELLNER, and told him that he was under arrest. BOB asked him what the charge was, and this man replied 'Conspiracy.' Either [REDACTED] or the other man asked [REDACTED] what our names were, and we told them. One of the men put BOB in the back seat of their State car, and they drove away.

"I have read the above statement. It is true and correct to the best of my knowledge.

"/s/ [REDACTED]"

b7c "Witnesses:

/s/ [REDACTED]

Sp. Agt., FBI, Mobile, Ala.

/s/ [REDACTED]

Sp. Agt., F.B.I., Mobile, Ala."

Date May 29, 1963

Montgomery, Alabama Police Department, furnished the following information freely and voluntarily. [redacted] advised he did not desire to incorporate the following information in a signed statement:

On the night of January 8, 1963, Governor JAMES PATTERSON telephonically contacted [redacted] at the Montgomery Police Department. The Governor asked [redacted] if J. ROBERT ZELINKER was incarcerated in the Montgomery City Jail. The Governor also inquired as to the whereabouts of [redacted] Montgomery, as well as [redacted]. The Governor stated the reason he desired to know if ZELINKER was in jail is that he, the Governor, had been receiving numerous calls that day asking if ZELINKER had been arrested by State Investigators. [redacted] advised the Governor that ZELINKER was not in the City Jail and the Governor asked if he would make efforts to contact [redacted] and have them get in touch with him.

b7c Shortly after talking to the Governor, [redacted] went to the Montgomery County Jail and one of the deputies there, name not recalled, told him that ZELINKER at that time was confined at the County Jail. He asked the deputy if [redacted] were there and the deputy told him he believed that the two of them had gone to the Governor's Mansion.

As [redacted] left the County Jail, he met [redacted] AL LINGO, [redacted] and [redacted] asked him to come with them into the Sheriff's Office and he accompanied these individuals into the Sheriff's Office.

In the Sheriff's Office, [redacted] and the individuals with him discussed the matter of [redacted] signing a warrant charging ZELINKER with vagrancy. [redacted] advised that these individuals present who were under Governor PATTERSON's administration, namely, [redacted] and [redacted] would not allow [redacted] to sign the warrant. He said AL LINGO, who had been appointed by incoming Governor GEORGE WALLACE as

On 5/28/63 at Montgomery, Alabama File # MO 44-901

SAS [redacted] and [redacted] by b7c [redacted] /pol Date dictated 5/28/63

NO 44-901

2

Director of the Department of Public Safety, wanted [redacted] to go ahead and sign the vagrancy warrant.

[redacted] told [redacted] that he would have ZELNER brought down to the Sheriff's Office and he was going to ask him various questions and should ZELNER refuse to answer, he wanted him, [redacted] to sign a vagrancy warrant against ZELNER and arrest him. [redacted] informed [redacted] that he could not do this unless told to do so by his superior. [redacted] telephonically contacted [redacted] and talked to him and then [redacted] talked to [redacted] and [redacted] told him to do whatever [redacted] requested.

One of the deputies brought ZELNER to the Sheriff's Office and [redacted] began to ask him questions and ZELNER advised that he was refusing to answer any questions and desired to contact his attorney. [redacted] gave him the telephone and ZELNER telephonically contacted his attorney, CLIFFORD DURR, Montgomery, Alabama.

DURR came to the Sheriff's Office and conferred with ZELNER. [redacted] then asked ZELNER some questions in the presence of his attorney, these questions being his name, where he lived and worked, and what he was doing in Montgomery, Alabama, and ZELNER refused to answer these questions.

At that point, [redacted] told [redacted] to arrest ZELNER and charge him with vagrancy and then ZELNER was arrested. [redacted] told [redacted] what the bond should be but this amount not recalled. [redacted] After arresting ZELNER, [redacted] took him to the City Jail where he was booked on a vagrancy charge. The warrant was filled out by a desk sergeant at the Police Department, his name not recalled by [redacted] and the warrant was signed [redacted].

[redacted] stated that he recalls that ZELNER was booked at the City Jail at approximately midnight on January 8, 1963.

The next morning, January 9, 1963, ZELNER was being tried in City Court for vagrancy and [redacted] was present at this time. [redacted] was advised by some member of the Police Department that the manager of the City Pawn Shop had called stating he had the day before accepted a check from ZELNER for the purchase of a camera. The reason



MO 44-901

3

for his calling was that he had, that morning, seen in the paper where ZELNER had been arrested and had then called the bank in Atlanta on which the check was written and had been informed that the bank account of ZELNER did not have sufficient funds to cover the amount of the check.

asked [redacted] advised [redacted] of this matter and [redacted] asked [redacted] if the pawn shop manager would sign a warrant and [redacted] told him he did not imagine he would as the manager desired only his money for the return of the camera.

b7c [redacted] desired that the check be obtained and [redacted] had [redacted] go to the City Pawn Shop and obtain the check. [redacted] instructed that the check be taken to the Union Bank and Trust Company, Montgomery, and some official there to call the bank in Atlanta to determine if the balance in ZELNER's account was sufficient to cover the amount of the check. [redacted] obtained the check and took it [redacted]

[redacted] determined that the account did not have sufficient funds to cover the check.

[redacted] had [redacted] send a wire to the bank in Atlanta on which the check was drawn requesting that bank to furnish him with a reply as to the amount of money in ZELNER's account to determine if, in fact, his account had sufficient funds to cover the check. He sent the wire to the bank requesting a reply that day. He said a reply was not received from the bank that day but on the next day, January 10, 1963, a telegram was received from the bank informing him that there was sufficient funds in the bank to cover the amount of the check. [redacted] advised that he did not recall the exact amount of the check in question.

[redacted] stated he is not sure if the manager of the pawn shop was ever asked to sign a warrant, but is of the opinion that he was not asked to do so as the manager stated it was his only concern to receive the money or the return of the camera purchased by ZELNER.

[redacted] requested [redacted] to sign a warrant charging ZELNER with false pretense regarding the check. [redacted] advised he signed a warrant for ZELNER's arrest on January 9, 1963, and he arrested ZELNER on this charge of



NO 44-901

1

false pretense.

b7c

██████████ advised he recalled no further information in this incident.

Date May 29, 19631

b7c [redacted]  
Department of the State of Alabama, contacted Special Agent [redacted] by telephone May 28, 1963 and advised that he was then in Governor WALLACE's office; that he had been advised by his Secretary that Special Agent [redacted] and another Agent had attempted to contact him that morning at his own office and wished to see him today.

[redacted] asked the nature of the matter that Agent wished to see him about and was advised that Agents sought to interview him as one of the persons alleged to have been present at the Montgomery County Courthouse on the night that JOHN ROBERT ZELINER was arrested and brought to the Courthouse by AL LINGO [redacted]

b7c [redacted] volunteered that he did recall the night and did hear about the arrest and go to the County Courthouse. He said, "However, I got there too late to participate in the decision on the arrest or the charge to be filed. I did not see ZELINER and believe that when I arrived ZELINER had already been taken to the City Jail." He said, "Wait a minute, AL LINGO is here in the Governor's Office."

b7c He turned and talked to someone and then said "AL says he believes I didn't get to the Courthouse until after ZELINER had been moved over to the City Jail."

[redacted] said that he has no personal knowledge as to what transpired that night at the Courthouse and is not willing to make any statement as to what he merely heard after arriving there.

On 5/28/63 at Montgomery, Alabama File # MO 44-901

by b7c SA [redacted] b7c -gre Date dictated 5/28/63

Date 5/29/63

b7c

CLIFFORD J. DURR, 2 Felder Avenue, telephonically contacted SA [redacted] on May 28, 1963, in response to efforts of SA [redacted] to set up an appointment to interview him. Upon learning the nature of the information desired Mr. DURR advised that he had submitted a sworn affidavit on February 25, 1963, in support of an application for a restraining order filed on behalf of JOHN ROBERT EKLINE in the United States District Court, Middle District of Alabama. He advised that this affidavit contains his complete knowledge of the circumstances surrounding the arrest of and the charges placed against EKLINE with the exception of a small amount of additional information which will be set forth below. Mr. DURR advised that he prefers that the information contained in his affidavit take the place of any additional statement by him. The information contained in Mr. DURR's affidavit is set forth verbatim below:

On 5/28/63 at Montgomery, Alabama File # MO 44-901  
by SA [redacted] <sup>b7c</sup> turn afh Date dictated 5/28/63

2  
NO 44-901 -lfb

IN THE UNITED STATES DISTRICT  
COURT FOR THE MIDDLE DISTRICT  
OF ALABAMA

JOHN ROBERT ZELLNER

VS.

CIVIL ACTION NO.

WILLIAM F. THETFORD,  
Solicitor Fifteenth Judicial  
Circuit of Alabama;  
MAURY D. SMITH, Deputy  
Solicitor Fifteenth Judicial  
Circuit of Alabama  
FRANK RIGGS, Deputy Solicitor  
Fifteen Judicial Circuit of Alabama  
AL LINGO, Director of the Department  
of Public Safety, and their successors  
in each such office.

AFFIDAVIT TO SUPPORT  
APPLICATION FOR RESTRAINING  
ORDER

I.

CLIFFORD J. DURR, being duly sworn on oath, deposes  
and says as follows:

"I am a resident of the City of Montgomery, Montgomery  
County, Alabama, a member of the Alabama Bar and I am engaged  
in the practice of law in the City of Montgomery. I am well  
acquainted with JOHN ROBERT ZELLNER and have known him since  
December of 1960 when he was a student at Huntingdon College  
located in the City of Montgomery, Alabama.

"On the night of Tuesday, January 8th, 1963, a  
young man by the name of SAM SHIRAH came to my home and told  
me that ZELLNER had just been arrested on the Huntingdon  
College campus by WILLIE B. PAINTER, a State Investigator  
and some other person whom he could not, at the time, identify.  
Shortly thereafter, I telephoned the County Jail and asked  
if ZELLNER was being held there and, if so, what the charge  
was against him. The person I talked to, whose name I  
understood to be SCHRIMSER, told me that ZELLNER was being  
held in the County Jail but that he did not know what the

3  
MO 44-991 -1fb

charge was. He promised to call me back as soon as he was advised of the charge. After waiting about forty five minutes, and having received no return call, I telephoned the County Jail again. I was again informed by the person answering that he did not know what the charges against ZELINER were but that there was some kind of a conference going on and he suggested that I call WILLIE B. PAINTER. He gave me a telephone number at which PAINTER could be located and, on subsequent check, I found this to be the number of the office of the Montgomery County Solicitor. I called this number, got PAINTER on the telephone, and asked what the charges against ZELINER were. He replied that he did not know. I then asked what business he had holding a man in jail when he did not even know what he was accused of having done. PAINTER replied to this that he could not talk to me right then but would call me back later.

"After waiting about an hour, and having received no call from PAINTER, I again telephoned the County Jail. This was about ten P.M. or shortly thereafter. The person answering again told me he did not know what the charges were but there had been a lot of conferring going on and ZELINER was being turned over to the City. I asked that ZELINER be permitted to come to the phone so I could talk to him but this request was refused.

"About an hour later, which was around 11 o'clock P.M. ZELINER called me over the phone and told me he was being held at the County Sheriff's office. I had talked to him a very short time when MAURY SMITH, Deputy County Solicitor for Montgomery County, got on the phone and told me that if I would only advise ZELINER to answer a few routine questions, it would not be necessary for me to come down to the Sheriff's office. I asked Mr. SMITH what ZELINER was charged with but got no response. I then told him that I would certainly not advise ZELINER to answer any questions until the charges were made known and that I was coming right down to the Sheriff's Office.

"When I arrived at the Sheriff's office, I was met by Mr. FLOYD MANN, then Director of the State Department of Public Safety, who introduced me to Mr. PAINTER and to a Mr.



4  
NO 44-901 -lfb

AL LINGO who, I was informed, had been named as successor to Mr. MANN and who would take office after the Inauguration of Judge WALLACE, the incoming Governor, on January 14th., 1963. In addition to Mr. MAURY SMITH, Lieut. J.D. SHOWS of the City Police Department was present at the Sheriff's office, a newspaper reporter and several other people whom I am unable to identify.

"Mr. SMITH told me he only wanted to ask ZELINER a few routine questions but I again told him that I would not advise ZELINER to answer any questions until I was informed what he was charged with. Mr. SMITH then proceeded to write some questions on a yellow pad which he read back to ZELINER. I again told him that I was advising ZELINER not to answer until informed of the charges. SMITH then turned toward J.D. SHOWS and said in a loud voice, "Charge him with vagrancy and set the bond at \$1000.00." The newspaper reporter then asked if \$1000.00 was customary for a bond in a vagrancy case but he got no reply. The reporter then asked who was swearing out the warrant, to which both Mr. MANN and Mr. PAINTER replied that they were not going to swear it out. I then asked Mr. SMITH who was going to swear it out and he replied "That will be self evident when it has been done." ZELINER was then taken to the City Jail and I left for home. By this time it was close to twelve o'clock midnight.

"The next morning, I was called by a newspaper reporter and advised that ZELINER's trial had been set before the Recorder at 8:30 A.M. This was the first and only advance information I received of the time of the trial.

"The trial was held before the Hon. D. EUGENE LOE, City Recorder. Before the trial I looked over the affidavit in support of the warrant and it charged that ZELINER "did wander or stroll about in idleness or lead an idle, immoral or profligate life, and is able to work, or loaf, loiters or idles in the City or upon any other public place." The offense charged was declared to be a violation of Chapter 20, Section 57, of the City Code.

NO 44-901 -1fb

"At the trial, although a City offense was alleged, the prosecution was conducted by Mr. MAURY SMITH. Although I listened to the testimony very closely I heard no testimony conforming with the language of the affidavit. The nearest approximation to such testimony was that of Mr. PAINTER who merely said ZELNER was walking with another young man along the sidewalks of Huntington College at the time of his arrest. On cross-examination, Mr. PAINTER expressly said that he had no information that ZELNER was leading an immoral or profligate life, he knew nothing about his ability to work and he did not know whether he was employed or not. At the conclusion of the testimony for the prosecution, (no testimony for the defense being offered) and a motion to exclude the testimony and dismiss the case having been made, the Recorder announced that he was finding ZELNER guilty of vagrancy but was deferring sentence until 8:30 A.M. January 10th, 1963. I protested that the maximum bond prescribed by law on an appeal from the Recorder's Court was \$300 and that ZELNER was entitled to be released on bond. To this the Recorder replied in effect, that ZELNER's right to bail bond expired when he was found guilty and his right to an appeal bond did not arise until sentence had been passed and that ZELNER was, therefore, not entitled to be released on bond.

"The next morning, January 10th, 1963, at about 8:30 A.M. ZELNER was sentenced to thirty days at hard labor. I then offered to make a cash bond for \$300 and appeal to the Circuit Court but was informed that ZELNER was being held on another charge of "false pretense" and that the bond for that would be an additional \$500. In the course of the morning the \$800 in cash was raised and bond made on both charges and the vagrancy charge appealed to the Circuit Court of Montgomery County.

"At the preliminary hearing before the Recorder on the false pretense charge which was held January 23, 1963, Mr. MAURY SMITH who was prosecuting, offered in evidence a purported statement of the Citizen's Trust Company of Atlanta, Georgia, a bank on which ZELNER was alleged to have written an \$85.00 check, purporting to show that ZELNER's balance at the time the check was written was less than \$85.00. The statement was admitted over my objection that it had not

been properly proven, on the basis of testimony by Mr. Smith, who took the witness stand, to the effect that he had obtained the statement from me in connection with negotiations I had conducted with him in an effort to obtain a dismissal of the false pretense charge. He admitted that in the course of our negotiations he would recommend that the false pretense charge be not pressed if Zellner would plead guilty to the vagrancy charge. The negotiations referred to by Mr. Smith consisted of several conferences I had previously had with him requesting that he treat the vagrancy and the false pretense charges as entirely separate matters and in view of the consequences to Zellner's reputation that he consider the false pretense charge and the matter of intent very carefully before proceeding further with the prosecution of the false pretense charge. The conference in which Smith offered to recommend dropping the false pretense charge took place before Mr. Thetford the County Solicitor in his office at the Courthouse in the City of Montgomery, Alabama. In the course of this conference Mr. Smith expressed reservations about the vagrancy charge but insisted that both charges be considered together. It was at this conference that he made the proposal of dismissing the false pretense charge on the Plea by Zellner of Guilty to the vagrancy charge. He further stated at this conference that in his opinion it would be impossible for Zellner to get a fair trial in Montgomery County at the present time.

"When the vagrancy charge came before the Circuit Court on appeal, on February 12, 1963, it was not pressed on the motion of Mr. David Grosland, City Attorney.

"In both Hearings before the Recorder, the \$85.00 check hereinabove referred to was admitted into evidence over my objection. The ground of objection assigned in both hearings was that the check was not shown to have been presented for payment and that payment had been refused. At the vagrancy hearing in the Recorder's Court I further objected on the grounds of relevancy.

"Following the sentencing of Zellner on the vagrancy charge by the Recorder on January 10, 1963, I requested that the check be either returned to me or to

MO 44-901 -mrh

7

the City Pawn shop, the Payee named therein, in order that it might be presented for payment but the request was denied on Mr. Smith's insistence that it should continue to be held as evidence.

"On the preliminary hearing before the Recorder on the false pretense charge, Mr. Ehrlich of the City Pawn Shop testified that although he had telephoned some one in the Citizens Trust Company on the morning of January 9th, 1963, and been advised that Zellner's balance was less than \$85.00, someone with that same bank had called him back later the same day and informed him that the balance was then sufficient to cover the check. According to all the testimony the check had been written in the late afternoon of January 8th, 1963.

"Following the preliminary hearing on the false pretense charge Zellner was placed under surveillance by The State Department of Public Safety and at least two and possibly more cars assigned to the task. I know this of my own knowledge as these cars were parked in the vicinity of my own home, where Zellner was staying. I know this not only from observation but from several conversations I had with Painter who was in one of the cars assigned to the surveillance.

"/s/ CLIFFORD J. DURR

"SWORN TO AND SUBSCRIBED before me on this the 25 day of February, 1963.

/s/ CHARLES MORGAN JR.  
Notary Public"

Mr. DURR advised that in addition to the information set forth in his affidavit concerning Mr. EHRLICH of the City Pawn Shop, EHRLICH told him that the individual who called him from the Citizens Trust Company in Atlanta, Georgia, also said that he had already told the Montgomery Police Department that the check was good.

Mr. DURR stated that the Circuit Court records in Montgomery County in the trial of ZELNER's case contain a

NO 44-901 -mrh

1

copy of a telegram from the Citizens Trust Company to the  
Montgomery Police Department stating that ZKLINER's check  
for \$85.00 was good.



Date May 29, 1963

1

"Montgomery, Ala.  
May 28, 1963"

"I [redacted] make the following free and voluntary statement to [redacted] who have identified themselves as Special Agents of the Federal Bureau of Investigation [redacted]

b7C "On January 8, 1963, Robert Zellner purchased an Aires camera and lens at the City Pawn Shop. [redacted] accepted a check from Zellner for the camera. The check was for \$85.00 and drawn on the Citizens Trust Bank Atlanta, Georgia. Zellner used an Alabama drivers license for identification and the license number was placed on the check.

"The next morning, I noticed in the newspaper that Robert Zellner had been arrested in Montgomery and charged with vagrancy. At approximately 8:10 AM I called the bank in Atlanta to determine if the check was good.

"Some woman in the bookkeeping department of the bank told me that at that time there were not sufficient funds in H. E. Zellner's account to cover the amount of the check.

"Immediately thereafter I called Police Headquarters in Montgomery and asked if Zellner was still being held and if he had a camera when arrested. This person, name not recalled, said he was not familiar with the case and would [redacted] someone call me."

On 5/28/63 at Montgomery, Alabama File # 44-961

SAS [redacted] b7C Date dictated 5/28/63

XXXXXX  
XXXXXX  
XXXXXXFEDERAL BUREAU OF INVESTIGATION  
FOIPA  
DELETED PAGE INFORMATION SHEET

1 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- ☒ Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552Section 552a☐ (b)(1)☐ (b)(7)(A)☐ (d)(5)☐ (b)(2)☐ (b)(7)(B)☐ (j)(2)☐ (b)(3)☒ (b)(7)(C)☐ (k)(1)☐ (b)(7)(D)☐ (k)(2)☐ (b)(7)(E)☐ (k)(3)☐ (b)(7)(F)☐ (k)(4)☐ (b)(4)☐ (b)(8)☐ (k)(5)☐ (b)(5)☐ (b)(9)☐ (k)(6)☐ (b)(6)☐ (k)(7)

- ☐ Information pertained only to a third party with no reference to the subject of your request or the subject of your request is listed in the title only.
- ☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

Page(s) withheld inasmuch as a final release determination has not been made. You will be advised as to the disposition at a later date.

Pages were not considered for release as they are duplicative of \_\_\_\_\_

Page(s) withheld for the following reason(s): \_\_\_\_\_

- ☒ The following number is to be used for reference regarding these pages:

44-21430-18 pg 22.

XXXXXXXXXXXXXXXXXXXX  
X Deleted Page(s) X  
X No Duplication Fee X  
X for this page X  
XXXXXXXXXXXXXXXXXXXX
XXXXXX  
XXXXXX  
XXXXXX

MO 44-901

1

b7C

[REDACTED]

"I would not have signed a warrant  
had I been requested to do so.

"I have read the above statement and it is true  
and correct to the best of my knowledge.

b7C

"/s/

[REDACTED]

"Witnesses:

b7C

"/s/  
"/s/

[REDACTED]

Special Agent, FBI, Mobile, Ala.  
Special Agent, FBI, Mobile, Ala."

Following investigation was by Special Agent

b7c [REDACTED]  
[REDACTED]  
WILLIAM B. THETFORD, Solicitor for the 15th Judicial District of Alabama, advised that Mr. THETFORD was then in court but that she is familiar with the case against JOHN ROBERT ZELNER that ended with a Mistrial in Circuit Court of Montgomery County.

[REDACTED] She said the files in her office indicate this case to still be pending and set for trial during the July (1963) Term of the Circuit Court of Montgomery County.

[REDACTED] Clerk in the Office of the Circuit Clerk of Montgomery County, confirmed that ZELNER's trial is set for the regular July Term.

She knew of no new motions or other activity in this case.